

(1400/CP/KSP)

माननीय मंत्री जी ने बताया कि करीब 133 करोड़ आधार कार्ड जारी हो चुके हैं और आधार नंबर दिए जा चुके हैं। एक्टिविस्ट चाहे कुछ भी बात करें, हो सकता है कि वे भी आधार का उपयोग लेते हों, लेकिन समय-समय पर गवर्नमेंट के काम में, गरीबों को सब्सिडी, बनेफिट और सर्विसेज कैसे पहुंचें, इसमें हर्डल क्रिएट करने के लिए समय-समय पर ये एक्टिविटीज की जा रही हैं।

जहां तक बैंक अकाउंट का आधार से सीडिंग का सवाल है, पहली बार इतना बड़ा काम हुआ है। आधार बैंक अकाउंट से सीडिंग हुए हैं और लगातार यह प्रोसेस चल रहा है। यह कंटीन्युअस प्रोसेस है। अगर हम देखें तो 439 स्कीम्स की, जो विभिन्न बनेफिशियरीज हैं, बैंक अकाउंट से सीडिंग हुई है। लगभग 55 मिनिस्ट्रीज के बनेफिशियरीज जो हैं, समाज के अंतिम छोर पर जो व्यक्ति बैठा है, उसको बनेफिट देने के लिए यह काम किया जा रहा है।

मंत्री जी ने बताया कि 7 लाख 30 हजार करोड़ रुपये अब तक आधार से, जब से इनकी बैंक अकाउंट से सीडिंग हुई है, ट्रांसफर हो चुके हैं। मैं यह भी बताना चाहूंगा कि इतने बड़े अमाउंट को अगर हम डिसबर्स करते तो हमें बहत बड़ी मशीनरी लगती और बहुत ज्यादा एक्सपेंस होता। इस टेक्नोलॉजी के माध्यम से कितना पैसा बचा होगा।

मुझे एक बात हमारे पूर्व प्रधान मंत्री स्वर्गीय राजीव गांधी जी की याद आती है। उन्होंने कहा था कि मैं जब 100 रुपये दिल्ली से भेजता हूं, तो सिर्फ 15 रुपये बनेफिशियरी के पास पहुंचते हैं और 85 रुपये बीच में भ्रष्टाचार की भेंट चढ़ जाते हैं। इस बात को किसी ने नहीं देखा, किसी ने गम्भीरता से नहीं सोचा। आधार आया, लेकिन उसको बैंक अकाउंट से सीडिंग करने का जो भाग है, वह दूसरा पार्ट है। एग्जीक्यूशन का जो पार्ट है, वह इंपोर्टेंट पार्ट है। जैसा अभी कांग्रेस के लीडर अधीर रंजन चौधरी साहब ने बताया कि आधार यूपीए की ब्रेनचाइल्ड है। मैं आपको बता दूं कि आधार वर्ष 2002 में कंसीव हुआ। यह अटल बिहारी वाजपेयी जी की सरकार का ब्रेनचाइल्ड है। यूपीए के टाइम में इस पर कुछ काम हुआ। आपने जो दूसरी चीजें कही हैं, मैं आगे उनके बारे में बताऊंगा। जहां तक इसका जो आइडिया कंसीव हुआ, वह वाजपेयी जी के टाइम में हुआ। आधार के द्वारा जो डॉयरेक्ट

बेनेफिट, बैंक के द्वारा जिसकी सीडिंग हुई, जैसा मंत्री जी ने बताया कि 1 लाख 42 हजार करोड़ रुपये इससे बचे हैं। आप सोच कर देखिए, इतना बड़ा अमाउंट, अनुमान लगाया जा रहा है कि प्रतिवर्ष करीब 1 लाख करोड़ रुपये, सिर्फ आधार की सीडिंग बैंक अकाउंट से होने से हर साल बचेंगे। इससे कितना बड़ा रेवेन्यू बचेगा और वह पैसा गरीबों के वेलफेयर के लिए जाएगा। समाज के अंतिम छोर पर जो व्यक्ति बैठा है, उसकी भलाई के लिए जाएगा। गरीबों का पैसा, गरीबों तक पहुंचाने का अगर किसी ने काम किया है, तो प्रधान मंत्री मोदी जी ने किया है।

यह बात तो प्रधान मंत्री स्वर्गीय राजीव गांधी जी ने कह दी कि जब मैं 100 रुपये भेजता हूँ, तो 15 रुपये पहुंचते हैं, लेकिन 85 रुपये बीच में कौन खा जाते हैं, इसके लिए उन्होंने आगे कोई कार्रवाई नहीं की। पहली बार प्रधान मंत्री मोदी जी ने करीब 8 करोड़ ऐसे घोस्ट अकाउंट्स, जो गवर्नमेंट सब्सिडी या बेनेफिट के हकदार नहीं थे, वे गवर्नमेंट बेनेफिट लेते थे। ऐसे व्यक्ति जो जन्मे ही नहीं थे, इस तरह का बेनेफिट लेते थे। 8 करोड़ लोगों को निकाल कर एक तरफ कर दिया। हम देखते और सुनते हैं कि वे लोग जो मोदी जी के खिलाफ हैं, जिनको यह तकलीफ हो रही है कि 8 करोड़ लोग जो फर्जी खा रहे थे, भ्रष्टाचार कर रहे थे, अपने गलत नाम लिखा रखे थे, सरकार का पैसा तरीके से उठा रहे थे, उन लोगों को अलग करने का काम किसी ने किया, तो मोदी जी ने किया।

पहले किसान बहुत दुःखी होते थे। चाहे उनकी सब्सिडी का पैसा हो, चाहे उनको जो विभिन्न बेनेफिट्स मिल रहे हों, चाहे दिव्यांग हों, चाहे गरीब और कमजोर हों, उन तक पैसा समय पर नहीं पहुंचने की वजह से उनको बहुत तकलीफ होती थी।

(1405/NK/SRG)

किसानों को समय पर पैसा नहीं मिलने की वजह से सुसाइड का रेट भी बढ़ा। यह भी अपने आप में एक बहुत बड़ा कारण था। पेमेंट डीले की वजह से बड़ी तकलीफ हुई थी। मेरा मानना है कि राज्य सरकारों को भी इसे एडॉप्ट करना चाहिए। अगर इसे सभी स्कीमों में लागू कर दिया जाए, सभी जगह इसे एडॉप्ट कर लिया जाए तो मेरा मानना है कि बेनामी प्रोपर्टी ट्रांजेक्शन की ट्रैकिंग बहुत आराम से हो सकती है।

अभी अधीर रंजन जी ने बताया कि सुप्रीम कोर्ट ने सरकार को फटकार लगाई। आधार 2002 में आया, 2014 के पहले यूपीए ने आधार को बिना कानून बनाए या बिना लेजिस्लेटिव बैकिंग के लाए, सिर्फ एक्जिक्यूटिव पॉवर से एक ऑथेरिटी क्रिएट कर दी और ऑथेरिटी को सारे पॉवर दे दिए। उस पर संदेह होना कि डेटा के लीकेज के बहुत चासेंज हैं। पार्लियामेंट के सामने आप कोई कानून नहीं लाए, इस तरह से यह सुप्रीम कोर्ट में मामला गया। वर्ष 2014 के पहले ही इनके द्वारा एक्जिक्यूटिव पॉवर की वैलिडिटी को आर्टिकल 21 के तहत सुप्रीम कोर्ट में चैलेंज किया गया। आर्टिकल 21 स्पेसिफिकली प्रोवाइड करता है “No person shall be deprived of his life and liberty except in accordance with the procedure established by law.” आर्टिकल 21 स्पेसिफिकली कहता है, उस समय यूपीए की सरकार इसको पार्लियामेंट के सामने क्यों नहीं लेकर आई? आर्टिकल 21 साफ कहता है कि अगर आप इस तरह का कानून लेकर आएं तो पार्लियामेंट के सामने आएगा। इन्होंने आर्टिकल 21 का कन्ट्रावेन्शन किया, वॉयलेशन किया। ये बिना रिकार्ड देखे एनडीए सरकार पर आरोप लगा रहे हैं, एनडीए सरकार ने कोर्ट में डिफेंड किया। भारत के संविधान की मंशा के अनुसार 2016 का आधार एक्ट लेकर आए, उसमें करीब-करीब सारी सेफगार्ड प्रोवाइड की गईं। जहां तक लॉ की बात है, कांग्रेस पार्टी बात करती है, यह बात करती है पर्सनल लाइफ एंड पर्सनल लिबर्टी की, इन्होंने सुप्रीम कोर्ट में इंटरनल इमरजेंसी के वक्त यहां तक कह दिया कि जहां तक आर्टिकल 21 लाइफ एंड लिबर्टी का कानून है “No person shall be deprived of his life and liberty, except in accordance with the procedure established by law.” इनका मानना था कि इसमें आदमी को किल भी कर सकते हैं, लेकिन लॉ होना चाहिए। इन्होंने यह नहीं देखा कि जो लॉ है, आपने जो लॉ बनाया है, वह रीजनेबल होना चाहिए, फेयर होना चाहिए और जस्ट होना चाहिए। उस लॉ की जस्टिफायेबल Subject to challenge before the Supreme Court लेकिन इनका हमेशा से ट्रैंड रहा है, इनकी जो मंशा रही है, इनका आर्टिकल 21 का इंटरप्रेटेशन रहा है, वह इमरजेंसी के दौरान और सुप्रीम कोर्ट में इनके स्टेटमेंट और समय-समय पर जो इनका स्टैंड रहा है, उससे पता लग जाता है। जो सुप्रीम कोर्ट में मैटर था,

हम उस जजमेंट को वेलकम करते हैं क्योंकि हम खुद चाहते हैं, मोदी सरकार खुद चाहती है कि आर्टिकल 21 के अनुरूप कानून बनना चाहिए। हमने माना है कि राइट टू प्राइवैसी वन ऑफ द फंडमेंटल राइट है। सुप्रीम कोर्ट ने आधार एक्ट 2016 को अपहैल्ड किया है और उसको कंस्टीट्यूशनली वैलिड माना है। यही नहीं, पूरे आधार स्कीम को सुप्रीम कोर्ट ने वैलिड माना है, उसमें सिर्फ दो प्रोविजन, जो प्राइवेट सैक्टर को देने की बात थी, उसको कहा कहा कि नहीं देंगे, उसके लिए हम नेसेसरी प्रोविजन लेकर आ रहे हैं। जहां तक हमारा लॉ है, अभी आधार 2016 को लेजिस्लेटिव सपोर्ट है, अभी जो लॉ आया है, उसमें सरकार ने नेसेसरी अमेंडमेंट किया है, उसको सुप्रीम कोर्ट के जजमेंट के स्प्रिट स्प्रिट और ऑब्जेक्ट को ध्यान में रखते हुए अमेंडमेंट किए हैं।

(1410/KKD/SK)

अगर हम सुप्रीम कोर्ट का जजमेंट देखें, Basically, it meets the concept of Constitutional trust, good governance. There are observations of the Supreme Court with respect to Aadhaar Scheme in totality except two provisions.

The Supreme Court observed that it meets the concept of Constitutional trust; it meets good governance; it is also for the digital privacy; and the Aadhaar Project is unique and unparallel document of empowerment. सिर्फ सैक्शन 7 जो सब्सिडी स्कीम का है, उसमें मंडेटरी और वाल्येंटरी का जो मामला था, उसमें कुछ प्रावधान जैसे टेलीकॉम सर्विसिस, मोबाइल, स्कूल में एडमिशन या बैंक एकाउंट खोलना, ये वाल्येंटरली रखा है। यह कन्सेंट पर निर्भर करता है, अगर कोई आधार देना चाहता है तो दे सकता है। हम आजकल आम प्रचलन देख रहे हैं कि सारे लोग बैंकों में आधार देते हैं, वाल्येंटरली देते हैं। सारे लोग स्कूल में एडमिशन के समय आधार देते हैं और सारे लोग मोबाइल सेवा के लिए भी आधार देते हैं। किसी भी बेनिफिट या सब्सिडी के लिए जाओ तो आधार बेसिक आइडेंटी का प्रूफ हो गया है।

जहां तक सैक्शन 57 की बात है, उसके बारे में जरूर सुप्रीम कोर्ट ने कहा है कि प्राइवेट कांट्रैक्टर को नहीं दे करके वह प्रोवीजन अनकांस्टीट्यूट किया है। इसके लिए इस बिल में माननीय मंत्री जी नैसेसरी अमेंडमेंट लेकर आए हैं।

The Supreme Court also observed that privacy cannot be the absolute fundamental rights. इसके लिए रेस्ट्रिक्शन इम्पोर्ट हो सकती है, and law is to be made by Parliament. At the same time, those restrictions should be reasonable, just and fair. इसके लिए ज्यूडिशियल रिव्यू अवेलेबल है।

मैं यह भी बताना चाहता हूं कि ऐसी भी रेस्ट्रिक्शन हो सकती हैं जो नेशनल सिक्योरिटी, पब्लिक इंटरस्ट के लिए हो। सुप्रीम कोर्ट का मानना है - To strike a fine balance, consent of the State and individual interest is to be taken into consideration. अब आधार में क्यूआर कोड और वर्चुअल आईडी से सिक्योरिटी और भी एन्हांस हो गई है।

जहां तक सिक्योरिटी की बात है, आधार एक्ट 2016 में कोर बायोमेट्रिक इन्फार्मेशन, फिंगर प्रिंट और आइरिस सफिशिएंट सेफगार्ड हैं। अब 2019 का जो बिल आया है उसमें भी सफिशिएंट सेफगार्ड प्रोवाइडिड हैं। अगर हम 2016 एक्ट में देखें, सिक्योरिटी में देखें, सैक्शन 28 'Security and Confidentiality Information' का है। Section 29 deals with restriction on sharing information. आधार इन्फार्मेशन को सिर्फ काम में लिया जा सकता है। Generation of Aadhaar Number and it can also be used for generation of authentication of Aadhaar. सिक्योरिटी का सफिशिएंट सेफगार्ड 2016 के एक्ट के प्रावधान में भी है और 2019 के बिल में भी है।

जहां तक अथारिटी क्रिएट करने का प्रावधान है, सैक्शन 11 और सैक्शन 23 में एक ऐसी अथारिटी क्रिएट की गई है जो प्राइवैसी को प्रोटेक्ट करती है और उसके बाद उसकी अटोनोमी भी एन्श्योर की है। ऐसा नहीं है कि गवर्नमेंट की आउटरीच हो। उसमें अटोनोमी है, and there can

be also a regulator for taking enforcement action. सरकार ने अथारिटी देखकर उसको एम्पावर किया है जिससे रेगुलेटर का काम भी कर सकते हैं।

आपके सामने 2019 का जो बिल आया है, उसमें सिविल पैनेल्टीज में, अगर इन्फार्मेशन का डिस्कलोजर हो तो एक करोड़ रुपये तक की पैनेल्टी की जा सकती है। जहां तक पनिशमेंट की बात है, यह पहले तीन साल थी, अब दस साल तक की पनिशमेंट है, अगर कोई अनआथोराइज्ड डाटा पर एक्सेस करता हो या उस डाटा को टैम्परिंग करता हो। अगर हम दोनों बिल 2016 और 2019 को देखें तो यह डिट्रेंट इफेक्ट है। हमारे कहने का मतलब है कि सेंट्रल आइडेंटी डाटा रिपोजिटरी को टच करने का सवाल ही नहीं उठता है।

(1415/MK/RP)

अब जहां तक सिक्योरिटी का कन्सर्न है तो जो सेन्ट्रल आइडेंटीज डेटा रिपॉजिट्री हैं, उसके जो बाउन्ड्रीज हैं, फेन्सेज हैं, मैं यह कह सकता हूँ कि डेटा रिपॉजिट्री के एराउंड कई फेन्सेज हैं और टेक्नोलॉजिकल फायरवाल्स भी हैं, जिससे किसी भी सूरत में वहां इंटरनेट एक्सेस नहीं किया जा सकता, इसके लिए सिस्टम फूलप्रूफ बना हुआ है। इसलिए यह चिन्ता की जरूरत नहीं है, जैसे अभी श्री अधीर रंजन जी ने कहा कि डेटा सिक्योरिटी के लिए लॉ आना चाहिए। सारे सेफ गार्ड 2016 और 2019 के बिल में लिए जा सकते हैं। मैं यह भी कहूंगा, कई लोग कंसर्ड करते हैं, लेकिन हम टेक्नोलॉजिकल रूप से साउंड हैं। Only two minutes, Sir. We have also introduced artificial intelligence in the system. मान लीजिए अगर कई लोग यह कहें कि हमारी जो फिंगर प्रिंट है, इसे कोई आर्टिफिशियल यूज कर ले, आइरिस आर्टिफिशियल यूज कर ले, लेकिन अब बॉडी के ब्लड सर्कुलेशन के साथ ऐसा सिस्टम आ गया है, जिससे डेड आदमी का भी फिंगर प्रिंट यूज नहीं कर सकते, क्योंकि It depends upon the blood circulation. सिस्टम पूरा डिटेक्ट कर सकता है कि यह फिंगर डेड पर्सन की है या जीवित व्यक्ति की है। इसलिए इसमें सफिशिएंट सेफ गार्ड हैं। इसमें किसी को चिन्ता करने की जरूरत नहीं है। I would also like to tell you that there is a Report of Justice B.N. Srikrishna – A Free and Fair Digital Economy: Protecting

Privacy, Empowering Indians. इसमें 12 डिजिट आधार हैं, इसके साथ वी.आई.डी है, इसमें अल्टरनेट वर्चुअल आइडेंटिटी भी दी गयी है लेकिन कोई जरूरी नहीं है कि इसमें आपके आधार नम्बर दिखेंगे। जहां तक कंसर्ड की बात है, 18 साल के नीचे जो बच्चे हैं, उनमें से 7 करोड़ बच्चों के आधार कार्ड बने हुए हैं, इसके लिए उनके पैरेंट्स और गार्जियन की कन्सेंट ली जाती है लेकिन 18 साल का होने पर, उनके पास ऑप्शन एवलेबल है कि whether he can continue with Aadhaar or cannot continue with Aadhaar, it is open for him.

2019 के बिल में यह भी प्रावधान किया है कि शेयरिंग एंड डिस्क्लोजर के जो रिस्ट्रिक्शन हैं, उसके इन्फार्मेशन के लिए पनिश्मेंट प्रोवाइडेड हैं और वालन्टेरली सर्विसेज के लिए अगर कोई कहता है कि मेरे पास आधार नहीं है तो उसको रिफ्यूज नहीं किया जा सकता। ये सारे प्रावधान सुप्रीम कोर्ट के जजमेंट के आधार पर लिए गए हैं। This Bill of 2019 is in consonance with the direction and observation of the Supreme Court Judgment and also in consonance with the constitutional mandate.

With these observations, I support this Bill.

(ends)

1418 hours

\*SHRI D. RAVIKUMAR (VILUPPURAM): Hon. Chairman Sir, *Vanakkam*. I thank you for allowing me to speak on this important Bill. This Bill is aimed to change the fate of 133 Crore people of India. Not only that, this Bill will also change the way the public governance is in the country. When I rise to speak on this Bill, as it is my maiden speech, I thank the voters of my Villupuram parliamentary constituency for this opportunity. I thank the inspiring leader Thiru Thol Thirumaa Valavan and the Leader of Dravida Munnetra Kazhagam Thiru M.K. Stalin for allowing me to contest elections. My stand on this Bill that this Aadhaar Bill should be opposed and it should be sent to the review of the Parliamentary Standing Committee. Why should I oppose this Bill? Hon. Prime Minister in his reply to this august House has mentioned about the contribution of Dr. B.R. Ambedkar, particularly the contribution of Dr. Ambedkar to the water management schemes. I wish to quote the views of Dr. Ambedkar with regard to this Bill. "Political democracy rests on four premises. They are: i). The individual is an end in himself. ii). The individual has certain inalienable rights which must be guaranteed to him by the Constitution. iii) The individual shall not be required to relinquish any of his constitutional rights as a condition precedent to the receipt of a privilege and iv) The State shall not delegate powers to private persons to govern others."

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\* Original in Tamil



These are the words uttered by our revolutionist Dr. Ambedkar when he was introducing the Bill of Rights. These words are apt to mention here for the Aadhaar Amendment Bill also. This Bill permits the private companies to use basic personal data pertaining to the people as per their wish. Even after the Hon Supreme Court has clearly mentioned its view point on this Bill, on the contrary, this Bill allows private companies to use the data of the people of this country. Justice Sikri of the Hon Supreme Court in his majority opinion on Aadhaar Bill has stated and I wish to quote:

“ Apart from authorising the State, ‘ even anybody corporate or person’ is authorised to avail authentication services which can be on the basis of purported agreement between an individual and such body corporate or person. Even if we presume that legislature did not intend so, the impact of the aforesaid features would be to enable commercial exploitation of an individual biometric and demographic information by private entities. Thus, this part of the provision which enables body corporate and individuals also to seek authentication, that too on the basis of a contract between the individual and such body corporate or person, would impinge upon the right to privacy of each individuals. This Part of the section, thus is declared unconstitutional.”

Even when the particular section of Aadhaar Bill introduced earlier by the Government had been declared unconstitutional by the Hon. Supreme Court, this Government without any concern for that, is permitting the private companies to make use of Aadhaar details of the people. I wish to cite an example, After the verdict of the Hon. Supreme Court was pronounced, the Union Government had written letters to the telecom companies including Jio asking to explain their views in this regard. For that these companies have said

that they would not be deleting the Aadhaar data saved by them and moreover these companies said that they will file an appeal with the Hon. Supreme Court in this regard. This Government which has sought the opinion of the private telecom companies did not intend to seek the opinion of the people by way of consultation process. During the course of Aadhaar related case hearing, the Government informed the Hon. Court that Aadhaar data would be only used for implementing social welfare schemes. But in the *Economic Survey* presented to the Parliament, today, Government has clearly mentioned that it has intentions to sell the Aadhaar data and earn revenue. I wish to state a Para on page 94 of *Economic Survey* Vol. I, under the heading Private Sector firms as beneficiaries.

“Undoubtedly the data revolution envisioned here is going to cost funds. Although the social benefits would far exceed the cost to the Government, at least a part of the generated data should be monetized to ease the pressure on Government finances.”

They have cited that by way of selling the data to the private companies, they can earn money. By way of selling the data pertaining to students the Government says that it can earn money. The future aim of the present Government is to go for revenue generation through the sale of preserved data of the people. This is complete violation of the verdict of the Hon. Supreme Court. This is against the basic structure of our Constitution. Even after the Hon. Supreme Court's judgement, privacy has become a part of our fundamental rights. This is the basic structure of our constitution as highlighted by Hon. Supreme Court.

The Government cannot tamper with the basic structure of the Constitution of India. This is the verdict of Hon. Supreme Court. When privacy has become part of our basic structure, an attempt to change it will be unconstitutional. Hon. Minister has stated Aadhaar as a valid law. This law is valid which is a basic requirement. There is no change. It does not mean that we should pass any law merely because it is valid. It does not mean that with the powers available, we can take away the rights of the people of this country. This will be undemocratic. These are not merely my words. They flow from the dissenting opinion of Justice D Y Chandrachud who called Aadhaar Act as “a fraud on the Constitution”. Parliament should take note of the strong observations of Justice Chandrachud. Hon Minister should take note of this. The Hon Minister has said that as many as 68 Crore people have taken their SIM cards by submitting Aadhaar details. It means the Aadhaar data of 68 Crore people has gone to the private companies. Privacy of the people has become a question mark. Even poorest of the poor are unable to avail medical facilities due to this. Two days ago, an elderly woman went for treatment to AIIMS. She approached the OPD for registration. But she was denied registration due to non-availability of an Aadhaar card. There is no provision in the present amendment Bill to punish those who insist upon Aadhaar for various reasons, against the verdict of Hon. Supreme Court. This bill has been introduced after the Hon. Supreme Court struck down the Section 33 Sub-section 2 of the Aadhaar Act. This Bill paves way to sell the preserved personal data relating to Aadhaar of the people of this country to private companies and earn money.

This is against the fundamental rights and basic structure of our Constitution. I urge upon the Hon. Minister and the Government through you Sir that this Bill in its present form should be sent for the consideration of the parliamentary Standing Committee. Thank you *Vanakkam*.

(ends)

1429 hours

SHRIMATI MAHUA MOITRA (KRISHNANAGAR): Hon. Chairperson Sir, I rise today to oppose the Aadhaar and Other Laws (Amendment) Bill, 2016. This Bill violates the Supreme Court Judgement. There is a complete lack of transparency, there is a lack of public consultation and scrutiny by any Parliamentary Committee.

(1425/1430/MMN/RAJ)

You tabled this Bill earlier this year, in spite of opposition from us. You could not pass it in the Rajya Sabha and then you issued an Ordinance, in spite of there being no extraordinary circumstances, whatsoever. What this Bill does is, it strikes at the very heart of the primacy of an individual and the privacy of an individual's data. This is what the Supreme Court in their 4:1 judgement also tried to talk about. There are three very problematic clauses in this amended Bill. First is clause 7 of the amendment to Section 4 of the parent Act. It says that you are mandating authentication of an Aadhaar number holder for the provision of any service, if required by law made by Parliament. So, what are you doing? You are going and amending the parent law which is, the Indian Telegraph Act and the Prevention of Money Laundering Act.

Let me go through this Bill. Since we are discussing the Bill, I am going to go through this Bill, Section by Section, and point out where we are. In this Bill, I have counted in more than 11 places these words 'as specified by regulation'. But on page 15 of the amendment Bill, there is a Memorandum regarding delegated legislation where you say regulation is an administrative matter of

procedure and it is not practicable to provide for it in the Bill itself. But this is integral to the Bill. How are the primacy of individual and privacy of data a matter of procedure? How in 11 places can you say that this is specified by regulation?

Now, when we go to Section 2, you are talking about an alternative virtual identity. The entire idea about Aadhaar was to set up a unique 12-digit number. If we have gone through and traversed such a long distance to come up with a new 12-digit number, where is the question of coming up with another alternative virtual identity? Is this not another way to just bypass the Supreme Court judgement which struck down clause 57? In Section 2 (aa), there is also another very scary clause. You are inserting a new clause into (aa) where you say "Aadhaar ecosystem includes enrolling agencies, Registrars, requesting entities, offline verification-seeking entities and any other entity as may be specified by regulations." The same thing is there when we go to the Memorandum regarding delegated legislation where you say this is something that is not practicable to put in the Bill. We are in Parliament. We are debating the Bill. How can I debate the Bill and be expected to give my assent for something I am not clear about, not transparent about?

When we go to Section 2 (pa), you say about offline verification. "Offline verification is the process of verifying the identity of the Aadhaar number holder without authentication, through such offline modes as may be specified by regulations."

Again, I have no transparency about what this offline number is. You do not tell me what the method of verifying it is. You say it is specified by

regulations. It is not integral to the Bill. Again, this is completely shrouded in mystery. Now, what does this mean? Does this mean you are handing over my Aadhaar number to some private agency the means to authenticate my number offline? So, you are seeking parliamentary assent for something which I am not clear about.

Now, what if the ecosystem fails? You have set out this Aadhaar ecosystem. What if it fails? You say there are alternatives, and viable means will be specified by law. Today, I am giving up my biometric data, my most personal private data to a private agency. If the ecosystem fails, you are saying that there are viable means to recourse but I do not know what they are. They have not been specified in the Bill.

We come now to Section 5, 4(a). This is very important. You say, “compliant with such standards of privacy and security as may be specified by regulations;” Again, there is no standard of privacy and security today. There is no data protection Act. This is a classic case of ‘cart before the horse’. You are saying that this is going to be specified; this is going to be privacy in security. In the absence of a data protection Act, which is what the Srikrishna Commission Report said we should do, which Justice Sikri and the other 4:1 judgment also laid out, how can you ask me to give up my information to a private agency? How is this possible? This is integral to the Bill. You cannot have the cart before the horse. Give us recourse, put your viable framework in place and we will give our assent. There is no problem.

When we go to Section 5, 4 (a) (ii), there, you are seeking authentication for such purpose as the Central Government in consultation with the Authority, and in the interest of the State, may prescribe. This is a very scary clause. So, it is giving you *carte blanche* to do anything. When the Central Government thinks of anything that is in the interest of the State, they can speak to the Aadhaar Authority and decide. This is *carte blanche*. When Aadhaar was set out, it was meant to provide for services to the poor. It was never meant to get data.

(1435/VR/IND)

The idea of Aadhaar was not to be acquisitive. The idea of Aadhaar was a means to give services to the poor, to distribute subsidy and other things from the Consolidated Fund of India. That is also extremely important. What has Aadhaar become now? Aadhaar has become a way to get information for private entities – my bank, who is contracted to me; my telecom provider, who has no business getting my biometric information. All these private agencies today are using this as a means to get the data. Its original idea which was for the poor to get subsidy, has completely turned on its head.

Justice Srikrishna in his Report recommended that the Aadhaar authority should be autonomous with no Government interference. This clause 5 (4a)(iii) completely flies in the face of that recommendation because it says that the Central Government in consultation with the authority, in the interest of State, can do anything.



In respect of Section 7, the Supreme Court said that Aadhaar must be used to providing services from the Consolidated Fund of India. Section 57 which was about sharing of data with private entities, was struck down. They said 'for any other purpose' we will strike it down. So, Section 57 as a whole was struck down. This particular Bill, it seems to me, is not even hiding the fact. It is absolutely open in its objective which is to bypass this particular Section 57, which was struck down, and it allows private entities, telecom providers and banks to get access to our biometric information. Bank accounts have nothing to do with the Consolidated Fund of India. Telecom providers have nothing to do with the Consolidated Fund of India.

Then, you are amending the PMLA. What is PMLA? It is Prevention of Money Laundering Act. It means that when you have a problem, if you have been flagged as somebody who is involved in money laundering, you may have an account in the Cayman Islands, then PMLA can be used. In this case, every law-abiding citizen is assumed to be involved in money laundering. This is a reverse onus. This flies in the face of any proportionality that you are assumed to be involved in money laundering. Here all of us who are law-abiding citizens must give our biometric data. Let us be flagged. If I have a Swiss bank account and if I am flagged and you want my data by all means, you have a right to do it. But you cannot expect the law-abiding citizens to give up their data. You are changing very substratum of the judgement; you are changing the very substratum of the concept of privacy in our Constitution.

Section 7 (8A), speaks about offline verification of an Aadhaar number. It says, 'Every offline verification of an Aadhaar number holder shall be performed in accordance with the provisions of this section.' Sir, we are dealing with the country where majority of the people are not informed. When the people get a Jio sim card, they give up their Aadhaar number because it is giving them free data. They have no idea what they are even giving up. In this case, which private entity is going to give it in writing and which person receiving it is going to understand what they are getting. The Government is there to look into the interests of the poor. The Government is not there to help private agencies to get information from them.

There is one more important thing. In respect of Section 12, the Supreme Court in its judgement said, 'There has to be a higher-ranking officer along with, preferably, a Judicial Officer.' They used the term 'preferably'. But you have deleted it in the Bill. When my personal biometric information is being disclosed in the interest of national security, obviously, extra measures should be taken up. When the Supreme Court says that a Judicial Officer should be there, why have you deleted that clause?

Then, clause 16 is again very scary. You are introducing an entirely new concept which is that of offline verification seeking entity. You are creating an alternative identity. Why should I give an alternative identity in the hands of private individuals? This is interfering with my relationship of contract with my bank. You are forcing me to give my biometrics by law to a bank or to a telecom agency.

Sections 37 and 38 of the principal Act deal with penalties which are available to the authority for unauthorised access to the Central Identity Data Repository. Recourses are available to the authority. I am the person and it is my data, why Sections 37 and 38 are not applicable to me? Why do I have no recourse if my data has been hacked from the Central Identities Data Repository? How come the authority has recourse and I, as an individual, whose biometric it is, who has the first right over it, do not have access to it? What is this?

You have now amended Section 24 of the Indian Telegraph Act. You are saying that you can use the Passport and any other document which will get notified by the Central Government. As of today, there is no notification issued. Only five per cent people of India have Passports.

(1440/SAN/VB)

So, you have not notified the other documents. Only five per cent people have passports. So, they have to give either Aadhaar or passport number. What does it mean? You are forcing people to give Aadhaar.

By clause 25 of the Bill, you are introducing a new Section 11A into PMLA which allows banking companies to conduct Aadhaar-based authentication and offline verification. By amending the parent Act, you are completely changing the substratum of the judgement; you are trying to bypass the judgement as well as the right to privacy, which we are entitled to as per our Constitution. So, we urge you that in the absence of that, please open this to public consultation and have the closest scrutiny by referring this Bill to the Standing Committee.

Sir, this is what we would request you. Thank you.

(ends)

1441 hours

SHRI SRIDHAR KOTAGIRI (ELURU): Hon. Chairman, Sir, I would like to thank you for giving me an opportunity considering the fact that it is such an important Bill. I will be named as part of the history for participating in this discussion. I also have to thank my colleague, Shri Lavu Sri Krishna Devarayalu, MP from Narasaraopet for putting together this message, for whom I am stepping in because he could not make it due to personal reasons.

Let me begin by expressing pleasure that this Bill has lived up to the Supreme Court's directive which read down Section 57 of the Aadhaar Act, 2016.

I commend the Union Government for clearly aiming to omit the controversial sections on use of Aadhaar by corporate and private entities. No State in the world should directly or indirectly compromise the privacy of individuals' sensitive information – neither into the hands of private players nor into its own and never to a foreigner.

I must welcome the enabling aspects of this Bill. It attempts to create much needed regulatory framework, enforcement capabilities and penalising powers for the Unique Identification Authority of India. Layers of encryption are being added to conceal the Aadhaar Number and its datasets, which is an appreciable thing. The idea of informed consent and protection of children by their guardians until adulthood are measures of a good public policy.

Giving citizens the option to choose their preferred mode of identity verification and opening up the ambit of complaints to them are necessary to

democratise the system. The Bill stands firm on constitutional grounds as it states that no citizen will be denied services for want of Aadhaar verification. One cannot deny that this Bill decentralises funding by creating the UIDAI Fund that will bring self-sustenance to the project in its own right.

All these are positive things. I am sure that it is music to the ears of the Treasury Benches. They must be elated to know that someone from the middle order in this august House is painting a rosy picture of this proposed legislation. They are free to think so, but I urge them to lend their ears equally to know of the lurking dangers of our times. These days the big brother tendency of the system itself prevails to haunt our citizens in subtler ways than one can imagine.

Let me start by reminding you again that I come from the State of Andhra Pradesh which witnessed the country's biggest Aadhaar data leak or, you might say, data theft. In July, 2016, the then State Government led by TDP conducted the much hyped PrajaSadhikara or the Smart Pulse Survey. It collected the socio-economic and demographic data of 1.26 crore households in the State citing that it was for a more effective delivery of welfare schemes. In the name of welfare, the TDP Government tricked the people into filling information gaps left behind by Aadhaar. ...(*Interruptions*)

SHRI RAM MOHAN NAIDU KINJARAPU (SRIKAKULAM): Sir, this is a baseless allegation. ...(*Interruptions*)

SHRI SRIDHAR KOTAGIRI (ELURU): Why do you not reply when you will get a chance to speak? You can reply when you get your chance to speak. ...(*Interruptions*)

HON. CHAIRPERSON (SHRI N.K. PREMACHANDRAN): Nothing is going on record except Shri Sridhar's speech.

...(Interruptions) ...(Not recorded)

HON. CHAIRPERSON: Please be seated.

... (Interruptions)

HON. CHAIRPERSON: If there is anything unparliamentary, it will definitely be taken care of.

... (Interruptions)

SHRI SRIDHAR KOTAGIRI (ELURU): Sir, in the name of welfare, the TDP Government tricked the people into filling information gaps left behind by Aadhaar. In the Government's own words, it possessed 60 per cent of the information it needed and was going after the rest. ...(Interruptions)

HON. CHAIRPERSON: Please try to avoid making allegations against the State Government. Please speak on the Bill.

... (Interruptions)

SHRI SRIDHAR KOTAGIRI (ELURU): Not knowing the dire consequences of this survey, people started furnishing details of caste, family, community education, income, livelihood, whether they were beneficiaries of welfare schemes and what amount they received for the same.

(1445/RBN/PC)

The then Government took all these details and uploaded them online through a e-KYC-based verification system linked to Aadhaar. What then followed were a series of data leaks or what you might say, 'data theft' that exposed these details to the entire world. In 2018, the AP Housing Corporation's website had disclosed personal information and bank details of about 1,34,000 people to several private agencies.

Again in June 2018, the AP State Government portal [www.ap.gov.in](http://www.ap.gov.in) itself hosted Aadhaar linked details of 4.5 crore residents living in the State. These details were directly taken from the Smart Pulse Survey Data mentioned earlier.

Again in September 2018, the AP Government put up an open data base once again of more than 23,000 farmers and other tribals. Subsidies provided to them from the AP Medicinal and Aromatic Plants Board and all their personal data were open for all to access.

The list of leaks was endlessly growing until one day, when it all started making sense to the people. In early 2019, people witnessed the truth behind the politics when huge number of applications were uploaded on to the Election Commission website for removal of votes to the tune of lakhs in each parliamentary constituency. ...(*Interruptions*)

HON. CHAIRPERSON (SHRI N.K. PREMACHANDRAN): Hon. Member, please confine to the Bill. Your time is already over.

... (*Interruptions*)

SHRI KOTAGIRI SRIDHAR (ELURU): Sir, can I continue to speak? It is my turn.

...(*Interruptions*)

HON. CHAIRPERSON: Hon. Members, please be seated.

... (*Interruptions*)

HON. CHAIRPERSON: Your time is already over. Please conclude.

... (*Interruptions*)

SHRI KOTAGIRI SRIDHAR (ELURU): I am just repeating what had happened.

Everybody knows it. It is open to the whole world. ...(*Interruptions*)

HON. CHAIRPERSON: You cannot make any specific allegation. You can very well speak on the Bill.

... (*Interruptions*)

SHRI KOTAGIRI SRIDHAR (ELURU): They conspired systematically using the Government servants, paid workers and party cadre to conduct a public survey - all to ensure that they can categorise voters, profile them and 'manage' the election process in the State. The private company data-grids poured life into the illegal project by creating a SevaMitra mobile application which was accessible to each and every ground cadre of the party up to the booth levels and beyond.



The Telangana State Forensic Science Laboratory revealed that a mammoth 7.8 crore records of Aadhaar data linked with Smart Pulse Data were stored by a private company. These records that belong to citizens of Telangana and Andhra Pradesh were linked with voter ID numbers, colour photographs, names of family members, caste groupings, whether they were beneficiaries of welfare schemes and the amount they received for the same. A statement was issued by an Aadhaar Deputy Director that the database structure, size and file formats recovered from the private company's storage devices were similar to those maintained by the Central Identities Data Repository. ...(*Interruptions*) This is against a private company. I do not why you are so bothered.

Now, while the private company was booked by the Hyderabad police, till date not a single Government servant, paid worker or party cadre has been arrested. The TDP Party was even prepared on the legal front. In fact, back in 2017, the State Government passed the Andhra Pradesh Core Digital Data Authority Act. Section 37 of that Act states that no legal proceeding shall lie against any officer or employee for anything which is done in good faith. What this means is that leaks and breaches are not something any official in the Government can be held responsible for.

HON. CHAIRPERSON: Please conclude.

SHRI KOTAGIRI SRIDHAR (ELURU): Almost done Sir.

Our present State Government led by our hon. Chief Minister Y.S. Jagan Mohan Reddy is striving to scrap such draconian sections of the State law.

Under his leadership we are preparing the ground to door deliver the welfare schemes. We are establishing Gram Secretariat in each village. Any eligible person can approach Village Secretariat and his request will be processed in 48 hours. I request the Union Government to look into it as a mode for other States as well.

With regard to this Bill, I would like to state that no doubt it bars private entities from using Aadhaar-based information. But there is no clarity on norms and penalties when officials within the Government itself leak the information to private entities or open web sources.

HON. CHAIRPERSON: Please conclude.

SHRI KOTAGIRI SRIDHAR (ELURU): In this case, we all saw that if an incumbent Government has the strong will to indirectly pursue illegal means to no end, they can go ahead and execute it. Except that, they stand exposed clearly. ...*(Interruptions)*

HON. CHAIRPERSON: Please conclude. I have to call the other Member.

SHRI KOTAGIRI SRIDHAR (ELURU): Almost done Sir.

... *(Interruptions)*

(1450/SM/SPS)

HON. CHAIRPERSON (SHRI N.K. PREMACHANDRAN): Please conclude. I have to call the other speakers.

SHRI SRIDHAR KOTAGIRI (ELURU): Yes, Sir. I am just concluding.

HON. CHAIRPERSON: If you want to conclude, please conclude in one or two sentences.

SHRI SRIDHAR KOTAGIRI (ELURU): Finally, I would like to suggest to the Union Government to incentivise independent security researchers to report data weaknesses for monetary rewards and domain recognition. A lot of countries, to strengthen their cyber defence, is successfully implementing this.

Sir, I would like to conclude by offering full support to this Bill and amendments made in it. Our suggestion is, rather than reacting to the situations, that we all should make amendments to Aadhaar in time so that no citizen will lose basic rights like availing their vote or access to the welfare schemes that are conceived for them. Thank you.

(ends)

1451 hours

SHRI PINAKI MISRA (PURI): Thank you, Hon. Chairman, Sir. Let me wish this Hon. House, as my other colleagues from Biju Janata Dal have done, a 'Happy Rath Yatra'. From the people of my constituency, Puri, I convey their best sentiments to this House. I am sure the people of Odisha will also be happy to receive reciprocal wishes from this House. Jay Jagannath! It is a very important event. As a Member of Parliament for Puri, I should have been there. But I am here today as instructed by my Party to flag certain issues before the Government. Therefore, it is important enough for me to be here.

Hon. Chairman, Sir, let me say that, unfortunately Aadhaar like GST is really a lesson that should be obtained in the country in terms of bipartisanship. We have seen Shri Adhir Ranjan Chowdhury taking the credit for Aadhaar saying that they initiated it. Now, they are opposing it. Unfortunately, the Treasury Benches today, are waxing eloquently in terms of Aadhaar. They were opposing it, when they were in the Opposition like the GST. Unfortunately, this is not good for this country. Therefore, I implore both the major political parties that in future at least when they know in their heart of hearts that there is something which is in the interest of the country, they should come up with constructive suggestions as we do in Odisha rather than, as a matter of principle, just keep objecting.

Let me say that most of the issues today are settled by the Hon. Supreme Court's judgement – majority 4:1 Judgement as well as the earlier judgement of

Justice Puttuswamy which is the Right to Privacy Judgement. What the Government is really doing is tinkering with the law. It will continue to tinker with the law. It is a new law. As this law distils and crystallises, we will see that many more amendments will come about. But the fact is that the basic fulcrum of the law is that the vires are upheld and the constitutionality is upheld. Therefore, now, there is no question of going back on Aadhaar. Aadhaar is a good law; Aadhaar is a good practice. That is the first thing that we have to acknowledge.

In fact, the Odisha Government, right after the recent Constitutional Bench judgement, have given effect to it in large measure and we have been benefitted by it. Lakhs and Lakhs of people, who ought not to have been benefitted from the Government's scheme particularly from the new KALIA Scheme that we have initiated recently for farmers' welfare, have been weeded out. Thanks to Aadhaar. It is proved that it is beneficial in Odisha. Therefore, as a matter of principle, I believe that Aadhaar is a good law as the Supreme Court has said and it is good in practice and execution as well.

The misgivings that have been projected in this House and principally by a very ardent opponent of this Government who, I think, in principle, is TMC led by Ms. Mahua Mitra Ji who actually said that we are, in principle, probably happy to support this legislation, provided the other limb that the Supreme Court has mentioned, the Data Protection Bill, should be brought in simultaneously. That seems to be the basic sentiment of a certain section of this House. That sentiment, may I say, Hon. Chairman, Sir, is not unfounded. I think the Hon. Law

Minister who is a very senior advocate himself, will see that the Supreme Court judgement is not just full of pious homilies. Practically, the Super Court judgement is in the nature of directions expressly given to the Government or, in any event, considered by the learned Attorney General.

Sir, I want to stress on a few sentences of Supreme Court judgement which are important as we are suffering from some practical problems because of the absence of the Data Protection Bill. I think it should have been really brought in along with this so that the House could have, on bipartisan basis, cleared both.

The Supreme Court has clearly said in Justice Sikri's Majority Judgements and I am quoting:

"we have also impressed upon the respondents, as the discussion hereinafter would reveal, to bring out a robust data protection regime in the form of an enactment on the basis of Justice B.N. Srikrishna (Retd.) Committee Report with necessary modifications thereto as may be deemed appropriate."

(1455/AK/KDS)

This carries on all the way through : "Notwithstanding the statutory provision discussed above, we are of the view that there is a need for a proper legislative mechanism for data protection." So, it is a virtual mandamus given to the Government.

It goes on to state that : "The Draft Bill and the Report cull out rights and obligations of the data fiduciary and data controller respectively". It further states

that : “There may be indeed scope for further finetuning of this law through a consultative process. However, we are not far away from a comprehensive data protection regime, which entrenches informational and data privacy within our laws and legal system. We hope that there would be a robust statutory regime in place in the near future”. This is as good as a mandamus given to the Government.

Justice Bhushan’s Judgement again concurs that : “The Report having been submitted, we hope that law pertaining to Personal Data Protection shall be in place very soon taking care of several apprehensions expressed by petitioners”. Here also, I think that the hon. Members like Shrimati Mahua Moitra and other speakers have indeed expressed the same kind of misgivings.

Now, let me straightaway draw the kind attention of the hon. Minister -- since he is also in-charge of two very important Departments of IT as well as Telecom - - that information and data now is the new ‘oil’ of the 21<sup>st</sup> Century. This is going to be how the society is going to be driven going forward. Therefore, whoever controls information and data is going to be in this incredibly powerful position to be able to control our lives. We have seen in a country like the United States, which is a powerful country, where there is so much debate now on whether the US elections were actually influenced by Analytica, a British company, at the behest of another foreign power. There is a massive amount of debate on that issue in the United States. The reason I am saying this, and I do not intend to target ‘A’ company or ‘B’ company, but, for sure, we have a neighbour who is hell-bent on aggrandizing data and information from India and it is not going to be for the benefit of India and

Indians. It is going to be for their benefit and their future because they actually believe in planning centuries ahead.

It is very ironical that Mr. Shashi Tharoor and the *Swadeshi Jagran Manch* are completely opposite sides of the coin, yet they are on the same page as far as, for instance, this Chinese company called *ByteDance*, which promotes Tiktok and Helo in this country. Both of them are on the same page. The *Swadeshi Jagran Manch* has written a savage letter, a stinging indictment to the hon. Prime Minister showing how this particular company is engaged in such iniquitous, nefarious, egregious activities in this country that ...(*Interruptions*)

Sir, I had 10 minutes at my disposal, and it is not even 8 minutes. Mr. Chairman, please. I am watching the clock like a hawk. ...(*Interruptions*)

HON. CHAIRPERSON (SHRI N. K. PREMACHANDRAN) : Sorry. The time allocated for you is just four minutes.

SHRI PINAKI MISRA (PURI): Kindly give me a couple of minutes more.

HON. CHAIRPERSON: I am just cautioning you. Definitely, this is a very important Bill where academic and intellectual exercise is required.

SHRI PINAKI MISRA (PURI): Mr. Chairperson, I would be the last one to waste the time of the House. It is in the interest that Members know what will happen.

HON. CHAIRPERSON: I am only cautioning you that the time allocated to you is over.

SHRI PINAKI MISRA (PURI): Kindly give me another couple of minutes.



HON. CHAIRPERSON: Yes, please.

SHRI PINAKI MISRA (PURI): The reason I am saying this is that a few hundred million users in India alone are today using Tiktok. Two out of three Tiktok users are coming from India. So, can you imagine the amount of information and data that is being aggrandized by them? Their reply to Mr. Tharoor was that : “We have no existing relationship with the Chinese Government.”. What does that mean? It means that you had a past relationship, and going forward, there is no guarantee that you will not have a relationship.

It is well-known, as the *Swadeshi Jagran Manch* letter says that any kind of under-bidding or under-cutting that takes place in these telecom sector tenders in India is done by these Chinese companies because they have full backing, might and the power of the Chinese Government. Otherwise, there is no way that they would be doing it. They are sharing all their data with the Chinese companies as well as with the Chinese Government.

Eventually, it is very important that going forward, the Treasury Benches also recognise the fact that while today they may be beneficiaries of agencies like Tiktok and Helo because perhaps it is said that it was helpful in their winning the elections. Tomorrow, the very same agencies and instrumentalities would turn against you. Therefore, you would be ‘*hoist with your own petard*’. Eventually, we are all going to be victims because we, as Indians, are going to be victims.

Therefore, I would urge the hon. Minister that the time has really come when companies, which are \$75 million to \$100 billion companies, are operating in India with Indian money.