

# Aam Janata

## Intellectual Anarchy!

# Nagrik Chetna Manch files contempt against RBI Governor, Chief Election Commissioner and Cabinet Secretary

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Linking of benefits to Aadhaar card

Posted By: [Vidyut](#) July 9, 2015

*Nagrik Chetna Manch (NCM)* filed a Contempt Petition (21656 of 2015) on 6<sup>th</sup> July 2015 initiating proceedings for committing civil contempt of the Hon'ble Supreme Court by violating its interim orders dated 23.09.2013 and 16.03.2015 in Writ Petition (Civil) 494 of 2012 and dated 24.02.2014 in Special Leave Petition (Criminal) 2524 of 2014. The contemnors are (1) Pradeep Kumar Sinha, Cabinet Secretary, Union of India, (2) Swadheen S Kshatriya, Chief Secretary Government of Maharashtra, (3) Raghuram Rajan, Governor, Reserve Bank of India (4) Nasim Zaidi, Chief Election Commissioner, Election Commission of India.

*NCM* noticed that there was a spurt of directives in the last few months by both the Central and State governments violating the orders of the Supreme Court by mandating linkages of benefits to the possession of Aadhaar number. We give below a few examples for the basis of the Contempt Petition.

The Department of Electronics and Communication Technology integrated Aadhaar to draw benefits in the newly launched Digital India Program. The Ministry of Labour and Employment made Aadhaar card compulsory for ESI services. The Ministry of New and Renewable Energy made Aadhaar mandatory for receiving capital subsidy. The Ministry of Rural Development made Aadhaar compulsory for MNREGA services.

The Govt. of Maharashtra made Aadhaar compulsory for ration services at Fair Price Shops and for school admissions and the Election Commission of India issued instructions for linking Aadhaar card with Elector's Photo Identity Card.

In its interim order dated 23.09.2013 passed in WP (C) 494 of 2012, the Supreme Court had directed, "in the meanwhile no person should suffer for not getting the Aadhaar number and when any person applies to

get the Aadhaar number voluntarily, it may be checked whether the person is entitled for it under law as it should not be given to any illegal immigrant.” In its order dated 24/03/2014 in SLP 2524/2014 filed by the Unique Identification Authority of India against the Central Bureau of Investigation and others, the Supreme Court had restrained the UIDAI from transferring any biometric information of any person to any other agency without a written consent.

*Nagrik Chetna Manch* has prayed for prohibition of linkage of Aadhaar number to any benefits, to end the discrimination of persons into Aadhaar and non-Aadhaar residents and restrain the Government from transferring any biometric information of any person from or to any other agency without specific written permission.

### ***NCM's Contempt Petition 21656 of 2015 in the Supreme Court***

On 6<sup>th</sup> July 2015, Nagrik Chetna Manch (NCM) filed Contempt Petition bearing no. 21656 / 2015 under Art 129 & 142 of the Constitution of India read with section 12 of the Contempt of Courts Act 1971 for initiating contempt proceedings against the Contemnors for committing Civil Contempt of Hon'ble Supreme Court whereby violating it's interim orders dated 23.09.2013 and 16.03.2015 passed in WP (C) no. 494 of 2012. As well as order dated 24.02.2014 passed by Hon'ble Supreme Court in SLP (Crl) no. 2524 of 2014. Contemnors being (1) Pradeep Kumar Sinha, Cabinet Secretary, Union of India, (2) Swadheen S Kshatriya, Chief Secretary Government of Maharashtra, (3) Raghuram Rajan, Governor, Reserve Bank of India (4) Nasim Zaidi, Chief Election Commissioner, Election Commission of India.

Earlier NCM had filed WP no. 932 of 2013 in public interest against the use of the UID number by RBI, ECI, RGI and GoI on the grounds mentioned in the WP in which notice had been issued on 19.11.2013 by the Hon'ble Supreme Court and the same was tagged with aforesaid WP (C) 494 of 2012.

In it's interim order dated 23.09.2013 passed in WP (C) no. 494 of 2012, the Hon'ble Supreme Court while feeling importance of this matter, listed it for final hearing. And also directed that in the meanwhile no person should suffer for not getting the Aadhaar number and when any person applies to get the Aadhaar number voluntarily, it may be checked whether the person is entitled for it under law as it should not be given to any illegal immigrant.

In an order dated 24/03/2014 in another matter Special Leave to Appeal (Crl) No.2524/2014 filed by the Unique Identification Authority of India (UIDAI) against the Central Bureau of Investigation (CBI) and others, the Supreme Court had restrained the UIDAI from transferring any biometric information of any person who has been allotted the Aadhaar number to any other agency without his consent in writing. The order further stated that no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled. All the authorities were directed to modify their forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by the Hon'ble Supreme Court.

Despite these orders neither the Government of India nor States and their functionaries have been complying the orders of the Supreme Court in letter and spirit. They have continued to cause suffering by continuously mandating more and more for registration and linkages to the Aadhaar. The NCM quotes a few examples of the violations by the contemnors in the Petition.

The Department of Electronics and Communication Technology, for example, launched the Digital India Program on 1<sup>st</sup> July 2015. This program integrates Aadhaar as a mandatory feature to draw any benefits. The Ministry of Labour and Employment, Govt. of India issued advertisement in for making Aadhaar card compulsory for ESI services. The Ministry of New and Renewable Energy, Govt. of India issued notice No. 5/34/2013-14/RT dated 01.01.2015 for making Aadhaar card compulsory for receiving capital subsidy. The Ministry of Rural Development, Govt. of India issued letter dated 18.02.2015 and again on 25.02.2015 for making Aadhaar card compulsory for MNREGA services. The Minister of Rural Development, Govt. of India answered a unstarred question on 05.03.2015 whether the Union Government proposes to link accounts opened under Pradhan Mantri Jan Dhan Yojana with Aadhaar number to transfer subsidy and

wages under MGNREGS directly indicating that “The States have been asked to take active measures to link the bank accounts of the workers with their Aadhaar numbers. In order to make use of the benefits under the PMJDY, all States have been requested to undertake an immediate drive to open Pradhan Mantri Jan Dhan Yojana (PMJDY) accounts for all the active wage seekers who already do not have a Bank/ Post Office account in the nearest commercial Bank/ Post Offices. Wherever accounts have been freshly opened by MGNREGA workers under the PMJDY, such accounts are being linked with Aadhaar number of the beneficiaries.”

The Govt. of Maharashtra issued Cabinet Resolution dated 03.03.2015 for making Aadhaar card compulsory for ration services at Fair Price Shops. The Resolution also requires the transfer of biometric information to the Govt. of Maharashtra despite there being no consent in writing of the persons whose biometric it may be. The Govt. of Maharashtra issued GR dated 21.04.2015 for making Aadhaar card compulsory for school admissions.

The Reserve Bank of India issued letter dated 26.11.2013 for making Aadhaar card readers compulsory for all new infrastructure services.

The Election Commission of India issued letter dated 27.02.2015 for linking Aadhaar card with EPIC. This process of seeding is meaningless without discriminating, and thus causing to suffer, those without an Aadhaar.

In the meanwhile as the common man continues to suffer the Aadhaar, NCM has alleged in its Petition 932 of 2013, that the linkage of Aadhaar to various databases is destroying governance and ability to govern. NCM has also highlighted that it will end the rule of law and perhaps even compromise the sovereignty of India. Such linkage of bank accounts to Aadhaar is facilitating money laundering. Linkage of Aadhaar to the EPIC and NPR is destroying the ability to distinguish citizens from residents and giving citizenship to illegal immigrants as well as anti-nationals.

NCM in the CP filed, prays for prohibition of operations related to Aadhaar number by Contemnors forthwith and until final disposal of WP (C) no.494 of 2012, require contemnors to end suffering caused by discrimination of persons into Aadhaar and non-Aadhaar residents through the continued usage or seeding of Aadhaar by any agency and restrain the contemnors from transferring any biometric information of any person who has been allotted the Aadhaar number from or to any other agency.

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