

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.43027 OF 2022

Between:

Telangana Meeseva Federation
(Regd., No.336 of 2016)

... **Petitioner**

And

Government of India & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P.No.43027 OF 2022****% 03.06.2024****Between:**# Telangana Meeseva Federation
(Regd., No.336 of 2016)... **Petitioner****And**

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... **Respondents**

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> Head Note:

! Counsel for the Petitioner

: Mr. Bethi Venkateshwarlu

^ Counsel for Respondents:Mr.Gadi Praveen Kumar,
Deputy Solicitor General of
India for R1 to R3.
G.P for Information and
Technology for R4 to R6.

? Cases Referred:

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THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.43027 OF 2022****ORDER:**

Heard Mr.Bethi Venkateshwarlu, learned counsel appearing on behalf of the petitioner, Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing on behalf of respondent Nos. 1 to 3 and learned Government Pleader for Information and Technology appearing on behalf of respondent Nos. 4 to 6.

2. The Petitioner approached the Court seeking prayer as under :

".....to issue an appropriate writ, order or directions more particularly, one in the nature of Writ of Mandamus, declaring the action of the respondents more particularly the respondent No.2 in issuing the office Memorandum vide F.No.HQ-16024/4/2020-EU-I-HQ-Part(1), dated 14-10-2022, for shifting the Registrar/EA i.e., 4th and 5th respondents working under outsourced/VLE model to in-house model before 30th November 2022 and further directing the Registrar i.e., 4th respondent to identify the existing operators & clients not working under in-house model shall be identified Registrar wise and 20% of such

operators & clients shall be deboarded every month i.e., 20% each on 30th November, 31st December, 2022, 31st January, 28th February and 31st March, 2023 and not considering the 4th respondent request letter vide Lr.No. A7/3187/Aadhaar/In-House-model/2022, dated 14.11.2022 and petitioner's representation dated 09.11.2022, to till this date as highly illegal, arbitrary, bad and unilateral and without considering the interest and welfares of the existing VLE's/operators and violation of the articles of the constitution of India and also amounts to principles of natural justice and set aside the same and consequently direct the respondents more particularly the 2nd respondents to permit the Registrar/EA i.e., 4th and 5th respondents and the VLE's/operators to continue to run Aadhaar PEC centers in the existing model and pass such other order or orders..."

3. The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present Writ Petition, in brief, is as follows:

a) The petitioner's Association is the operator of MeeSeva/Aadhar/ CSC centers and the same is registered in the name of Telangana Meeseva Federation vide Regd., No.

336/2016 dated 28.09.2018 with an aim and object i.e., to act as a mediator between operators and the respondents. The members of the petitioner's association are running their respective Aadhaar centers since the year 2013 onwards to till this date, as per the proceedings vide Lr.No.390/ CSC/ Aadhaar/2013, dated 09-07-2013 & 28-06-2013 issued by the 5th respondent.

b) Prior to introducing Aadhaar services, the 1st respondent introduced Common Service Centers Scheme under National e-Governance Plan, dated 16.07.2009, under which some of the members of the petitioner's association delivered e-services through their respective CSC centers and they are delivering the same since the year 2015 onwards.

c) Later in the year 2017, the 2nd respondent introduced the Aadhaar services through UCL (Update Client Lite) and child enrollment services, for which the operators have incurred huge amounts in addition to existing Aadhaar kits, but the same were abruptly discontinued by the 2nd respondent without any intimation. The MOU of CSC e-Governance Services India Limited

(CSC SP) with the 2nd respondent was in force till the year 2018, as the 2nd respondent refused to renew the said MOU through letter vide F.No. 4(4)/57/145/2012/E&U/Vol-II dated 06.02.2018.

d) Thereafter the 2nd respondent approved the CSC's request through letter dated 24.04.2020 and allowed Aadhaar updates services at CSC's doing bank BC activity and also allowing other private agencies. While the same is not allowed in the MeeSeva centers which are recognized as public service delivery points and in spite of submission of representation dated 24.01.2021, the same was refused without any valid reasons.

e) While things stood thus, the 5th respondent has issued proceedings vide Lr.No.390/CSC/Aadhaar/2013, dated 09.07.2013 and 28.06.2013 addressing to all Joint Collectors & Addl., Director, ESD (MeeSeva), informing that, the Government of India has launched a scheme to set up one Permanent Enrolment Centers (Aadhaar Centers) in each Mandal and it can be set up at MeeSeva Centers as proposed by the IT&C Department and accordingly issued a guidelines for selection of

PEC/Aadhaar Operators and the MeeSeva/CSC operators in Mandal headquarters.

f) Subsequently, the 3rd respondent issued a letter vide No. DONo.UIDAI/Hyd/T-Corr with Regs & EAs/1617, dated. 01-02-2019, as the decision of the 2nd respondent for shifting of Aadhaar Centers to government premises from the private premises, is unilateral and without considering the grievances of the MeeSeva/CSC/Aadhaar operators/VLEs and causing severe hardships to the MeeSeva/CSC operators/VLEs who are rendering MeeSeva/CSC services as well as Aadhaar enrolment services from one place since 2014 onwards.

g) Therefore, the petitioner's Association filed a WP No. 3126 of 2019 and the same is pending. The 2nd respondent issued Office Memorandum, vide No. 4(4)/ 57/ 227/2014/E&U-Pt. dated 04.08.2017, stating that, "it will be mandatory to deploy CCTV camera in the enrollment center w.e.f. 01.10.2017 and keep the recording for minimum period of six months" and the same was implemented by the operators.

h) It is further the case of the petitioner's Association that the 2nd respondent has issued circulars dated 09.02.2018, 04.06.2018 & 14.08.2018 from time to time, with a policy for enforcing of Aadhaar (Enrolment and update) regulations, 2016 and by virtue of said circulars, the respondents are suspending the operator's ID's and station ID's unilaterally without issuing prior show cause notices and as a result, the Aadhaar centers stopped functioning. Further the 2nd respondent issued an office memorandum vide F.No.4(4)/57/372/2016/E&U-I, dated.09-05-2022 by revising the rates of the registrars.

i) While things stood thus, 2nd respondent had issued an Office Memorandum vide file No.F.No.HQ-16024/4/2020-EU-I-HQ Part(1), dated 14.10.2022 and in pursuance to the same the 3rd respondent issued proceedings vide No.RO-HYD-17040/2/2022-RO-HYD 3, dated 02.11.2022 addressing the 4th respondent, for shifting the Registrar/EA i.e.,4thand 5th respondents working under outsourced/VLE model to in-house model before 30.11.2022 and further directing 4th respondent to identify the existing operators & clients not working under in-house model to be identified Registrar wise and 20% of such

operators & clients shall be deboarded every month i.e., 20% each on 30th November, 31st December, 2022, 31st January, 28th February and 31st March, 2023, so that all Aadhaar centers work only under in-house model w.e.f 01.04.2023 and the same were addressed to the 4th and 5th respondents.

j) Furthermore, in pursuance to the proceedings dated 02.11.2022 issued by the 3rd respondent, the 4th respondent issued a letter vide Lr. No. A7/3187/Aadhaar/In-House-model/2022, dated 05.11.2022, to the 6th and 7th respondents, who are the Service Center Agencies (SCA's) of the operators/VLE's, by informing the decision of the 2nd & 3rd respondent, which is highly arbitrary and amounts to violation of principles of natural justice.

k) Consequently, after receipt of proceedings dated 02.11.2022, the respondents No. 6 & 7, issued Gmail notices dated 07.11.2022 and 09.11.2022 to their respective operators/VLEs, informing the decision of the 2nd respondent and requested to submit willingness letter on or before 14-11-2022, failing which it will be deemed that the operators/VLEs are unwilling and further informed that they are going to conduct meeting on

13-11-2022 for clarifications on the said issues. Immediately after knowing the same, all the operators/VLEs have submitted their representation dated 09-11-2022 through petitioner's association to the respondents No. 2 to 7 by narrating the grievances of the operators and requested to continue existing outsourced VLE model instead of proposed in house model and the same was acknowledged.

l) Later on, the petitioner learnt that, the 4th respondent addressed a letter A7/3187/Aadhaar/ In-House-model/2022, dated 14.11.2022 to the 3rd respondent by requesting to continue existing model to provide uninterrupted Aadhaar services to the citizen. However, even upon submission of representation dated 09.11.2022 and letter dated 14.11.2022 addressed by the 4th respondent, till this date the 3rd respondent neither considered nor passed any orders. But without passing any orders, as per the directions in the impugned proceedings dated 14.10.2022 and 02.11.2022, when the 2nd and 3rd respondents are proceeding to deboard the 20% of the existing Aadhaar VLE's on or before 30.11.2022 and thereby 20% of

Aadhaar centers every succeeding month up to 31.03.2023, the petitioner's Association filed the present Writ Petition.

PERUSED THE RECORD

4. The impugned proceedings vide F.No.HQ-16/2024/4/2020-EU-I-HQ-Part(1), dated 14.10.2022 is extracted hereunder:-

"Reference is invited to UIDAI DO letter No. 4(4)/57/146/2016/E&U/Vol.VI/Pt dated 28.06.2017 vide which Chief Secretaries of the States were requested to shift the enrolment centers from private and unsecured locations to secure government premises such as those inside District Collectorates/ Zilla Parishad Offices/ Municipal Offices / Block Offices/ taluka offices and other public delivery offices run by the State Government where direct supervision by the Government can be ensured.

2. It was also requested in the letter that the State Government may setup its own enrolment centers within the government or municipal premises with their own personnel as enrolment operators.

3. UIDAI has already issued more than 134 crore Aadhaar numbers covering more than 93% of overall population and nearly 100% of adult population. The requirement for new enrolment is mainly for the children in the age group

of 0-18 years. Considering the same. UIDAI already restricted new enrolment of Adult residents at the designated Aadhaar centres only vide OM No. 16027/1/2022-EU-I-HQ dated 21.09.2022.

4. In order to cater to the expected demand for mobile number updation in Aadhaar and Child enrolment in 0-5 age-group, UIDAI on-boarded India Post Payments Bank (IPPB) as its Registrar to provide the services through its vast network of about one lakh Postmen/GDS. Already 50,000+certified operators are on boarded in system.

5. In order to cater for the requirement of Child enrolment and Biometric update of children (after attaining 5 & 15 years of age), School Education department and WCD department of State Govt have been provided with ICT Assistance for procurement of Kits. Nodal departments of State Govt were also provided ICT assistance in 1st Phase of ICT assistance program by UIDAI.

6. It may also be noted that Residents have an option to update their demographic information through MyAadhaar portal where resident can update their name, date of birth, gender and address from the comfort of their home at ease.

7. It has been discussed in past at various stages to bring all functions of Aadhaar Enrolment Centres to in-house model with following requirements:

- i. The machine is owned by the Registrar/EA.
- ii. Operator/Supervisor: Employee/contract employee on roll of the Registrar/EA or hired from a manpower hiring agency on salary basis.

However, many centres are still continuing under outsourced / VLE model where VLE brings his own kit and working under Revenue sharing model.

8. Aadhaar has gained popularity as primary identification document in recent time. There has been a growing concern on possible ramifications of any fraudulent enrolment/ update activities on national security. Therefore, a need has been felt to further strengthen the Aadhaar enrolment ecosystem and it has been decided that Registrar/EA working under outsourced / VLE model shall be shifted to in-house model by 31st March 2023. Accordingly, UIDAI ROs to implement the above direction with following plan of action and timeline in respect of Registrars mapped with the RO:

- i. No new operators on-boarding and new activation of Client shall be done if it is not following the in-house model.

ii. The existing operators & Clients not working under in-house model shall be identified Registrar wise. Further 20% of such operators & Clients shall be deboarded every month (20% each on 30th November, 31st December 2022, 31st January, 28th February and 31st March 2023). The list of such operators & Clients may be obtained from respective Registrar for de-boarding during the month.

9. Considering the above, all ROs are requested to pursue the matter with Registrars/EAs functioning under their jurisdiction for shifting from outsourced/VLE model to in-house model so that all Aadhar Center work only under in-house model w.e.f.01.04.2023.

10. This issues with the approval of Competent Authority.

5. The counter affidavit has been filed on behalf of respondent Nos.4, 6 and 7 and also on behalf of the State Government, and in particular paras, 3, 5, 6 and 7 read as under:-

3. UIDAI has entered into Memorandum of Understanding (MOU) with Registrar (Telangana State Technological Services Ltd.,) TSTS Ltd., and the Registrar in turn engage the ESD (Electronically Services Delivery) as Enrolment

Agency (EA) who take up the work of the Aadhaar Enrolment/Updation of Aadhaar as per the Agreement with Registrar.

5. It is further submitted that vide VLEs representation dated 09.11.2022 to the Respondent No.4 (i.e. Principal Secretary to Govt., ITE &C Department) have requested to consider the interests of the Franchisees /VLEs who are providing Aadhaar Services from so long and insisting them to work on salary model is unreasonable and will severely affect the reasonable interests and livelihood of the Franchisees and also of the Operators engaged by them. Hence the Petitioners are requesting to reconsider on the decision to shift to the In-House Model and continue the present outsource VLE Model to protect the right to livelihood of the Franchisees and their Operators.

6. It is submitted that considering the requests of the Petitioners, Respondent No.4 vide Lr. No.A7/3187/Aadhaar /In-House Model/2022 14.11.2022 addressed to the Respondent No.3 (i.e. Deputy Director General UIDAI, RO, Hyderabad) to continue the existing Model to provide uninterrupted Aadhaar Services to the Citizens as to shift to the proposed In- House Model in the short duration may cause inconvenience to Citizens.

7. It is further submitted that Respondent No.5 has submitted second step (L2) activation proposals of Six (6) Machine IDs to Respondent No.3 vide Letter dated 12.10.2022 through e-Mail dated 27.10.2022. Vide e-Mail dated 04.11.2022 Respondent No.3 replied that to certify that the activation request follows under the In-House Model only as per new OM F.No.HQ- 16024/4/2020-EU-I-HQ-Part (1), dated 14.10.2022 for further process. Due to the above instructions, all the VLE / Outsourced Model machines are not yet activated.

Therefore so far as the issuance of guidelines and giving instructions on the appointment or the functioning of Aadhaar Services, the Respondent No.4, 5, 6 and 7 doesn't have any role to play as a matter of fact. **The UIDAI is governed by the Respondents No.1, 2 and 3 only. The instructions issued by Respondents No.1, 2 and 3 will be followed and implemented by the Respondents No.4, 5, 6 and 7.**

6. The counter affidavit has been filed on behalf of respondent Nos. 1, 2 and 3. The relevant portion of the counter affidavit reads as under:-

It is submitted that UIDAI has no contract with the Enrolment Agencies and/or the operators and has no role in the selection

and appointment of the Enrolment Agencies and/or the operators or in the terms of engagement or terms of payment, between the Registrar and Enrolment Agency or between the Enrolment Agency and Operator. Therefore, UIDAI directly deals with its Registrars and no outside agency has been officially authorized to act as a mediator between the Operators and the Answering Respondents. However, it is also submitted that UIDAI has put in place a mechanism to resolve the grievances at Regional Office level through monthly standing reconciliation committee of which concerned Registrars are a part of.

The Hon'ble Supreme Court of India while disposing off Writ Petition (Civil)No.247 of 2017 and others dated 9.6.2017 in PAN-Aadhaar link case, has inter alia stated that:

"It is important that the aforesaid apprehensions are assuaged by taking proper measures so that confidence is instilled amongst the public at large that there is no chances of unauthorized leakage of Data whether it is done by tightening the operations of the contractors who are given the job of enrolment, they being private persons or by prescribing severe penalties to those who are found guilty of leaking the details, is the outlook of the Government. However, we emphasise that measures in this behalf are absolutely essential and it

would be in the fitness, of things that proper scheme in this behalf is devised at the earliest"

With regard to para 12, it is humbly submitted since Aadhaar has gained popularity as primary identification document in recent times, there has been a growing concern on possible ramifications of any fraudulent enrolment/ update activities on national security. Therefore, in order to further strengthen the Aadhaar enrolment ecosystem, it has been decided that Registrar/EA working under outsourced / VLE model shall be shifted to in-house model by 31.03.2023. The contention of the Petitioner, that there is no such necessity warranted at this juncture for shifting into In-house model from VLE outsourced model is without any valid reasons is false, devoid of any merits and untenable.

UIDAI has issued the O.M. dated 14.10.2022 as a policy matter to strengthen the Aadhaar Enrolment Ecosystem and to curb the fraudulent enrolment/update activities on national security. Hence the contents of the same are baseless & devoid of any merits and are untenable. The concerns/issues raised by the respondent No.4 vide its letter dated 14.11.2022 are already under review by UIDAI.

With regard to para 17, it is submitted the concerns/issues raised by the respondent No.4 vide its letter dated 14.11.2022 are already under review by UIDAI. Further, the above decision of UIDAI does not restrict any Registrar to re-onboard, the operators working as VLEs, to become Operator/Supervisor under salary model. It is specifically denied that any loss or injury will be caused to the operators or their livelihood.

DISCUSSION AND CONCLUSION:

7. Learned counsel appearing on behalf of respondent Nos.4, 6 and 7 submits that the State Government has no objection to shift from outsourcing to in-house model, but however, a reasonable time is required for the same.

8. Learned counsel appearing on behalf of respondent Nos.4, 6 and 7 submits that they have no objection shifting from outsourcing to in-house model, but reasonable time is required and further, respondent Nos.4, 6 and 7 contend that the instructions issued by respondent Nos.1, 2 and 3 will be followed and implemented by respondent Nos.4, 6 and 7. It is also

specifically admitted in the counter affidavit filed by respondent Nos. 1, 2 and 3 that the letter of the 4th respondent and the concerns and issues raised thereunder are already under consideration and under review by UIDAI.

9. This Court opines that the grievance of the petitioner as put forth in the present writ petition is already under consideration by respondents 1, 2 and 3 and taking into consideration:

(a) the specific averments made in the counter affidavit filed by respondent Nos.1, 2 & 3 and respondent Nos. 4, 6 and 7 referred to and extracted above,

(b) Duly considering the averments in the counter affidavit filed by respondent Nos.1, 2 and 3 that the concerns/issues raised by respondent No.4 vide letter, dated 14.11.2022 are already under review by UIDAI i.e., the competent Authority,

(c) Duly considering the contention of respondent Nos.1, 2 and 3 that they do not have any intention to

close the existing Aadhaar centers running in the Government premises,

(d) Duly considering that the steps initiated by respondent No.3 are in compliance with orders of the Hon'ble Supreme Court, dated 09.06.2017 in Writ Petition (Civil) No.247 of 2017 (referred to and extracted above),

(e) Duly considering the clear admission in the counter affidavit filed by respondent Nos.4, 6 and 7 that respondent Nos. 4, 6 and 7 will duly implement the instructions issued by respondent Nos.1, 2 and 3,

The writ petition is disposed of directing respondent Nos.1, 2 and 3 to take a decision in relation to the concerns and issues raised in the letter of respondent No.4, dated 14.11.2022 and also the letter of the petitioner, dated 09.11.2022, expeditiously, within a period of four (04) weeks, from the date of receipt of copy of this order, since this Court is of the firm opinion that the relief prayed for by the petitioner in the present writ petition for the consideration of respondent No.4 letter dated 14.11.2022 and the representation/letter dated

**09.11.2022 of the petitioner is already in process.
However, there shall be no order as to costs.**

**10. The Interim order granted by this Court, dated
01.12.2022 stands vacated.**

Miscellaneous petitions, if any pending, in this writ petition
shall stand closed.

SUREPALLI NANDA, J

Date: 03.06.2024

Note : L.R. Copy to be marked.
B/o.ktm