Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.6/2025

Date of order: 29.10.2025

Greneth M. Sangma ..... Petitioner

Vs.

1. The Union of India represented by the Secretary Govt. of India, Ministry of Electronic and Information Technology, Govt. of India, New Delhi.

2. The Ministry of Home Affairs, Govt. of India, West Block-I, R.K. Puram, New Delhi-110066.

3. The State of Meghalaya represented by its Chief Secretary, Government of Meghalaya, Shillong, East Khasi Hills District, Meghalaya.

4. The Deputy Commissioner, Tura, West Garo Hills, Meghalaya.

5. The Deputy Commissioner, North Garo Hills District, Meghalaya.

6. The Deputy Commissioner, Baghmara, South Garo Hills, Meghalaya.

7. Director of School Education & Literacy, Govt. of Meghalaya, Shillong.

8. Unique Identification Authority of India (UIDAI) represented by the Secretary to the Ministry of Electronic and Information Technology, Union of India, 3rd Floor, Tower II, Jeevan Bharti Building, Connaught Circus, New Delhi 110001. ..... Respondents

Coram:

Hon'ble Mr. Justice Soumen Sen, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr. P.T. Sangma, Adv
For the Respondents : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv
Ms. R. Colney, GA

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This public interest litigation (PIL) has been filed challenging the notification dated 31.10.2023 by which the State of Meghalaya has insisted that a child desirous of availing the benefit of financial assistance extended to the SC/ST students for the State who are not eligible for scholarships under the Government of India's Post Matric Scholarship Scheme for SC/STs and other scholarship schemes introduced by the Central and State governments would be required to furnish proof of possession of the Aadhaar number or undergo Aadhaar authentication.

2. This PIL was filed espousing the cause of various students who are unable to avail the said benefits by reason of their failure to produce the Aadhaar cards.

3. The learned counsel for the petitioner submitted that the Government of India, Ministry of Finance, Department of Revenue Central Board of Direct Taxes issued a press release on 12.05.2017, wherein the Commissioner of Income-Tax has stated in the press release that an individual residing, inter alia, in the State of Meghalaya are exempted from the requirement of Aadhaar card and therefore the Aadhaar card id is optional and not mandatory for the citizens who live in the State of Meghalaya and also would not be mandatory for the

purpose of opening the bank account or for any other activities. Similar notifications issued by different government institutions on 08.02.2017, 27.02.2017 and 14.07.2017 have been referred to in the petition. It is submitted that despite the exemption from the requirement of Aadhaar card in the State of Meghalaya and despite the RTI report dated 07.10.2020, wherein it has been clarified that the requirement of Aadhaar card is not mandatory for the registration of births and deaths, the Secretary to the Government of Meghalaya, Education Department had issued the notification dated 31.10.2023 directing the student to obtain the Aadhaar card in order to receive these exemptions. It is submitted that the notification insisting that till Aadhaar card is assigned to the child, the benefit of the scheme shall not be given to the child is contrary to the judgment of the Hon'ble Supreme Court in ***K.S. Puttaswamy & ors v. Union of India & ors***[1] and the subsequent judgment having the same cause title reported at ***(2015) 10 SCC 92***, wherein same issue came up for consideration. The learned counsel for the petitioner has also referred to the recent judgment of the Supreme Court having the same cause title reported at ***(2019) 1 SCC 672*** decided on 26th September, 2018, paragraph 14 to contend that the privacy is founded on the autonomy of the individual and it is an essential

[1] (2015) 8 SCC 735

condition for the exercise of most freedoms and upon insisting that a child is required to be enrolled first is against the spirit of the said judgment and the constitutional scheme of things.

4. The learned Deputy Solicitor General appearing for the Union of India has referred to Section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and submitted that the proviso to Section 7 has not been declared to be ultra vires. It is a welfare legislation and the Hon'ble Supreme Court found that the information collected at the time of enrolment as well as authentication is minimum. Moreover, the Court has arrived at the conclusion that the enrolment of Aadhaar card is in respect of the under privileged and marginalised section of the society and in order to avail the welfare scheme of the government which actually would empower them, the said Section was designed to take the benefit of the technology for ensuring good governance in a social welfare state. The entire aim behind insisting compliance of such formalities is to ensure that the deserving persons to get such benefits.

5. The learned counsel for the State has argued with the submission made on behalf of the Union of India.

6. We have read the judgments carefully and the impugned notification. While for the purpose of availing subsidies and other similar benefits paid out of the consolidated fund, compliance of Section 7 was held to be necessary however, at the same time the Hon'ble Supreme Court has recorded the statement of the Attorney General that no deserving person would be denied the benefit of a scheme on the failure of authentication as would appear from paragraphs 511.2 and 511.3, which are reproduced below:

> "511.2. The Court is also of the opinion that the triple test laid down in order to adjudge the reasonableness of the invasion to privacy has been made. The Aadhaar scheme is backed by the statute, i.e. the Aadhaar Act. It also serves legitimate State aim, which can be discerned from the Introduction to the Act as well as the Statement of Objects and Reasons which reflect that the aim in passing the Act was to ensure that social benefit schemes reach the deserving community. The Court noted that the failure to establish identity of an individual has proved to be a major hindrance for successful implementation of those programmes as it was becoming difficult to ensure that subsidies, benefits and services reach the unintended beneficiaries in the absence of a credible system to authenticate identity of beneficiaries. The Statement of Objects and Reasons also disclose that over a period of time, the use of Aadhaar number has been increased manifold and, therefore, it is also necessary to take measures relating to ensuring security of the information provided by the individuals while enrolling for Aadhaar card.
>
> 511.3. It may be highlighted that the petitioners are making their claim on the basis of dignity as a facet of right to privacy. On the other hand, Section 7 of the Aadhaar Act is aimed at offering

subsidies, benefits or services to the marginalised section of the society for whom such welfare schemes have been formulated from time to time. That also becomes an aspect of social justice, which is the obligation of the State stipulated in Para IV of the Constitution. The rationale behind Section 7 lies in ensuring targeted delivery of services, benefits and subsidies which are funded from the Consolidated Fund of India. In discharge of its solemn Constitutional obligation to enliven the Fundamental Rights of life and personal liberty (Article 21) to ensure Justice, Social, Political and Economic and to eliminate inequality (Article14) with a view to ameliorate the lot of the poor and the Dalits, the Central Government has launched several welfare schemes. Some such schemes are PDS, scholarships, midday meals, LPG subsidies, etc. These schemes involve 3% percentage of the GDP and involve a huge amount of public money. Right to receive these benefits, from the point of view of those who deserve the same, has now attained the status of fundamental right based on the same concept of human dignity, which the petitioners seek to bank upon. The Constitution does not exist for a few or minority of the people of India, but "We the People". The goals set out in the Preamble of the Constitution do not contemplate statism and do not seek to preserve justice, liberty, equality and fraternity for those who have the means and opportunity to ensure the exercise of inalienable rights for themselves. These goals are predominantly or at least equally geared to "secure to all its citizens", especially, to the downtrodden, poor and exploited, justice, liberty, equality and "to promote" fraternity assuring dignity. Interestingly, the State has come forward in recognising the rights of deprived section of the society to receive such benefits on the premise that it is their fundamental right to claim such benefits. It is acknowledged by the respondents that there is a paradigm shift in addressing the problem of security and eradicating extreme poverty and hunger. The shift is from the welfare approach to a right based approach. As a consequence,

right of everyone to adequate food no more remains based on Directive Principles of State Policy (Article 47), though the said principles remain a source of inspiration. This entitlement has turned into a Constitutional fundamental right. This Constitutional obligation is reinforced by obligations under International Convention."

7. Presently we are concerned with the right of the children which has been dealt with in the latest judgment of the Supreme Court in ***K.S. Puttaswamy & ors v. Union of India & ors***[2]. For the purpose of convenience, paragraphs 512 with sub-paragraphs are reproduced below:

> "512.(3) ***Whether children can be brought within the sweep of Sections 7 and 8 of the Aadhaar Act?***
>
> 512.1. For enrolment of children under the Aadhaar Act, it would be essential to have the consent of their parents/guardian.
>
> 512.2. On attaining the age of majority, such children who are enrolled under Aadhaar with the consent of their parents, shall be given the option to exit from the Aadhaar Project if they so choose in case they do not intent to avail the benefits of the scheme.
>
> 512.3. In so far as the school admission of children is concerned, requirement of Aadhaar would not be compulsory as it is neither a service nor subsidy. Further, having regard to the fact that a child between the age of 6 to 14 years has the fundamental right to education under Article 21-A of the Constitution, school admission cannot be treated as "benefit" as well.
>
> 512.4. Benefits to children between 6 to 14 years under *Sarv Shiksha Abhiyan*, likewise, shall not require mandatory of Aadhaar enrolment.

[2] (2019) 1 SCC 1

> 512.5. For availing the benefits of other welfare schemes which are covered by Section 7 of the Aadhaar Act, though enrolment number can be insisted, it would be subject to the consent of the parents, as mentioned in para 512.1 above.
>
> 512.6. We also clarify that no child shall be denied benefit of any of these schemes if, for some reasons, she is not able to produce the Aadhaar number and the benefit shall be given by verifying the identity on the basis of any other documents. This we say having regard to the statement which was made by Mr. K.K. Venugopal, learned Attorney General for India, at the Bar." (emphasis supplied)

8. The children who are now to be benefitted under the scheme had already enrolled themselves in the schools and they would now be pursuing their higher secondary i.e. to say Class-XI and Class-XII. If the students had already furnished the required details to establish their authenticity at the time of their admission and matriculations if for some reasons, they are unable to produce the Aadhaar number in terms of paragraph 512.6, they cannot be denied the benefit of the scheme. This also appears to be the submission made on behalf of the Union of India by the Attorney General for India, at the Bar and have been accepted by the Hon'ble Supreme Court in paragraph 512.6 in the case of *K.S. Puttaswamy* (supra).

9. In view of the above, the notification as far as it insists the production of Aadhaar card shall not be applicable to the SC/ST students of the State up to the post-matriculation level [up to the age of

18 years] for the post-matric scholarship scheme. However, the candidate would be required to prove his identity as a resident including birth certificate and any other reliable authenticated documents if called for by the authorities in processing their claim for scholarship.

10. The PIL is disposed of with the aforesaid directions.

11. However, there shall be no order as to costs.

(W. Diengdoh)
Judge

(Soumen Sen)
Chief Justice

Meghalaya
29.10.2025
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