

**IN THE HIGH COURT OF ORISSA AT CUTTACK****W.P.(C) No.8285 of 2025***(An application under Article 226 and 227 of the Constitution of India)***Rohit Anand Das
and another**

...

Petitioners*-versus-***State of Odisha
and others**

...

Opposite Parties**Advocates appeared in the case through hybrid mode:****For Petitioners**: Mr. A. Jebraj,
Advocate.
Ms. R. Shruti, Advocate
Ms. A. Kar, Advocate*-versus-***For Opposite Parties**

: Mr. S. Behera, A.G.A.

Mr. P.K. Parhi, DSGI with
Mr. D. Gochhayat, CGCMr. S.K. Sarangi, Sr. Advocate
with Mr. S. Sarangi, Advocate

**CORAM:
JUSTICE SASHIKANTA MISHRA****JUDGMENT
12.12.2025**



Sashikanta Mishra, J. ‘Privacy is an inherent human right, and a requirement for maintaining a human condition with dignity and respect’- said Bruce Schneier in his book, ‘Schneier on Security’. It is a fundamental human right that protects an individual’s personal information, choices, dignity and freedom from unwarranted surveillance. It is recognized as a fundamental right under Article 21 of the Constitution of India. A Five-Judge Bench of the Supreme Court in the case of **K.S. Puttaswamy vs. Union of India**, (2019) 1 SCC 1 held in no uncertain terms that right to privacy being an important fundamental right encompasses various aspects of life. Though not absolute, it can be subject to reasonable restrictions only. The present Writ Petition involves the question of interference with the Petitioners’ right to privacy.

Facts

2. Briefly stated, the Petitioner No.2 represented by her father Petitioner No.1, is a student of K.G.1 in Sai International School, Bhubaneswar. The Petitioner No.1



received a letter dated 28.12.2024 from the school to give his consent for generation of an APAAR ID for his ward. A consent form was enclosed to the said letter. Said letter required the parents to give their consent along with a copy of their Aadhaar Card to the class teacher by 10th January, 2025 for generation of the APAAR ID. The Petitioners are basically aggrieved by such letter on the ground that it does not provide the parents the right to opt out of the requirement to submit Aadhaar details. According to the Petitioners, the consent form contains several clauses which could infringe their right to privacy, as their personal information could be made available to other entities. It also runs contrary to the stated position of the Ministry of Education, Government of India that the initiative is entirely voluntary in nature. Petitioner No.1 therefore, wrote to the Principal of the School expressing his apprehension and clearly indicating that he would not be granting consent for the creation of an APAAR ID for his daughter (Petitioner No.2). He also indicated that the consent form provided along with the letter dated 28.12.2024 did not provide an



option to refuse consent or opt out of the initiative. Since the petitioners did not receive any response, they have approached this Court in the present Writ Petition seeking the following relief:

“It is, therefore, prayed that the writ petition may kindly be allowed and by an appropriate writ, order or direction the Hon'ble Court may be pleased to;

(a) Issue an appropriate writ, order or direction in the nature of a mandamus directing the Opposite Parties to amend the consent form given in Ministry of Education letter dated 11.10.2023 vide Annexure-4 so as to provide parents with the option to opt out of issuance of APAAR ID;

(b) Issue an appropriate writ, order or direction declaring that the present consent form for the APAAR initiative is not valid without the provision of an option to refuse consent as this violates Petitioner No. 2's right to privacy under Article 21 of the Constitution;

(c) In the alternative, issue an appropriate writ, order or direction in the nature of a mandamus directing the Opposite Parties to rescind the Ministry of Education letter dated 11.10.2023 vide Annexure-4 and related instructions/orders directing schools to get APAAR ID issued and issue a new notification, if required, wherein the option to opt out of issuance of APAAR ID is clearly given to parents and displayed in the consent form;

(d) Issue an appropriate writ, order or direction in the nature of a mandamus directing the Opposite Parties to strengthen safeguards with respect to third parties authorized to accessing the database and clarify that the data so accessed may not be retained or used for any other purpose other than that envisaged under the APAAR initiative;

(e) Issue an appropriate writ, order or direction in the nature of a mandamus directing the Opposite Parties ensure that all personal data of a user will be



deleted from the APAAR system on a request for deletion of data by said user;

(f) Pass any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interests of justice.

And for this act of kindness your Petitioners shall as in duty bound ever pray.”

Case of the Petitioners

3. According to the Petitioners, the Automated Permanent Academic Account Registry (APAAR) is a measure introduced by the Ministry of Education (MoE) on 29.7.2023, which commences the ‘one student, one unique I.D’ initiative and aims to assign students unique I.Ds linked to their Aadhaar numbers to track lifelong educational records and consolidate all academic achievements in one place. It is stated to be a voluntary initiative as per information provided on the APAAR Website. By letter dtd.11.10.2023, the MoE asked the Chief Secretaries of all States to ensure creation of APAAR ID of students of all Schools, with specific instructions to obtain consent from parents. It was accompanied by a sample consent form which, inter alia, contained the following clause:



“I understand that my ward’s APAAR number may be used and shared for limited purposes as may be notified by Ministry of Education from time-to-time for the educational and related activities. Further I am also aware that my wards personal identifiable information (Name, Address, Age, Date of Birth, Gender, and Photograph) may be made available to entities engaged in various educational activities such as UDISE+ database, scholarships, maintenance academic records, and other stakeholders like Educational Institutions and recruitment agencies.

[Emphasis Added]

According to the Petitioners, this violates their right to privacy besides being non-specific as regards the limits of the expression, ‘limited purposes and stake holders etc.’

4. Pursuant to such instructions of the MoE, the State Project Director, Odisha School Education Programme Authority (OSEPA) directed all District Education Officers to accelerate and expand the APAAR ID creation process by setting up special Aadhaar camps. In the letter dtd.26.12.2024, there was a specific mandate to ensure 100% coverage of Aadhaar to bring APAAR ID generation to saturation mode. According to the Petitioners, it seriously violates their right to privacy and also runs contrary to the law laid down by the



Supreme Court in the case of ***K.S. Puttaswamy (Supra)*** that there can be no compulsory requirement of Aadhaar for school admission as per Article 21-A of the Constitution. Further, by giving effect to the proposed initiative, the personal data of the child would be compromised. Though stated to be a voluntary measure, yet there being no opt out/refusal of consent provision in the consent form, same has to be treated as mandatory in nature. In short, there is no scope for the parents to refuse consent. It also runs contrary to the provisions of Section 6(1) of the Digital Personal Data Protection Act, 2023. There is no guarantee that the academic data of the students would not be used even after the students have completed their education. No safeguards have been provided for protecting the usage of academic data of the students from being accessed by third parties. This, according to the petitioners, directly infringes their right to privacy. While not opposing the APAAR ID initiative as such, the petitioners only want that the consent form be modified appropriately to include an opt out/refusal of consent clause.



Stand of the MoE (Opposite Party No.3)

5. In the affidavit filed by Opposite Party No.3, it is, inter alia, stated that APAAR ID is designed to provide a unique, lifelong 12-digit identifier for all school enrolled students to accumulate and store their academic accomplishments. It will facilitate seamless transitions between institutions for the pursuit of further education and simplify the process of credit recognition and transfer right from the school level, thereby streamlining academic progression and recognition of prior learning among many other benefits. The apprehension of the Petitioner is unfounded in view of the fact that letter dtd.11.10.2023 enclosing the consent form clearly indicates that consent is entirely voluntary and the information is for the students wanting to create their APAAR ID. Schools can mark consent status as 'Yes' or 'No' in the UDISE+ database. Moreover, any data collected through the APAAR ID of the students shall be maintained in a confidential manner and shall be masked when disseminating the said data to other Governmental entities and shall not be disclosed to any



third parties. The last paragraph of the consent form provides the option to withdraw the consent at any time, which implies that no information/data shall be further processed.

Stand of UIDAI and MeitY (Opposite Party Nos.4 and 6)

6. It is stated that UIDAI and MeitY do not directly interact with students, parents or schools in the implementation of APAAR ID nor do they collect or manage educational data. Their role is limited to providing back-end authentication (in case of UIDAI) and digital platform integration (in the case of MeitY). The primary responsibility for the policy, implementation and use lies with the Ministry of Education and its agencies. Since no relief is claimed against them, they are not necessary or proper parties.

Stand of OSEPA (Opposite Party No.2)

7. Acting on the instructions issued by the MoE for generation of APAAR ID, OSEPA has taken necessary steps for the same through its functionaries. APAAR IDs have been generated in favour of only those students who have submitted the consent form duly signed by



their parents/guardians. The data so collected is protected in compliance with the data protection laws and is kept confidential. It is an initiative to track the educational progress and achievements of students, enabling them to digitally store achievements like examination results, holistic report cards, learning outcomes and other accomplishments such as Olympiad, sports, skill training or achievement in any other field. The student can use the credit score for higher education or employment purposes.

Stand of Sai International School (Opposite Party No.5).

8. Notice to all parents was issued on 12.3.2025 by the School as per directions of the State Government contained in its letter dtd.26.12.2024. Said notice was issued to help facilitate parents whose children did not have Aadhaar Cards. The entire process was conducted in terms of various notifications/instructions of the State and Central Governments. Aadhaar card is a mandatory requirement for creation of APAAR ID. In view of notification of the State Government on 11.4.2024, a



similar notice was issued by the School to organize special Aadhaar camps. The School has no authority to take any independent decision except to abide by Government instructions.

Submissions

9. Heard Mr. A. Jebraj, learned counsel for the Petitioner, Mr. S. Behera, learned Addl. Government Advocate for the State, Mr. P.K. Parhi, learned DSGI for Union of India with Mr. D. Gochhayat, CGC and Mr. S.K. Sarangi, learned Senior counsel with Mr. S. Sarangi for Sai International School (Opposite Party No.5).

10. Mr. Jebraj would argue that though projected as voluntary in nature, the absence of any enabling clause in the consent form to be submitted by the students/parents implies that it is mandatory. Unless there is a specific clause giving an option to the students/parents to opt out of the initiative or to refuse to give their consent, it would violate the fundamental principles relating to their right to privacy. Unless the linkage of Aadhaar is made voluntary and the students/parents are not compelled to share such data,



there would be no guarantee that such valuable personal data would not be compromised. Mr. Jebraj further contends that a 5-Judge Bench of the Supreme Court in the case of **K.S. Puttaswamy (Supra)** held that the fundamental right to education under Article 21-A of the Constitution could not be made subject to the requirement of an Aadhaar Card, as there is a need to specially protect the privacy of children. The State has a constitutional duty to enable parents and guardians to assert the rights of children and act in their best interest. Mr. Jebraj also argues that though Section 6(1) of the Digital Personal Data Protection Act, 2023 is yet to come into force and is scheduled to be notified within the next 18 months, its principles stand violated by insisting upon creation of APAAR ID. The conduct of the concerned authorities in initiating aggressive enrolment programmes without any provision for opting out makes the initiative mandatory in nature, which cannot be countenanced in law.

11. Mr. P.K. Parhi, learned DSGI submits that from all the communications, instructions and guidelines issued



by the MoE, it would be evident that creation of APAAR ID of the students is a voluntary initiative and the parents can always opt out of the Scheme. The model consent form contains a specific clause permitting withdrawal of consent once given and in such event, the processing of the said information shall stop. There is no question of forcing anyone to opt for the scheme.

12. Mr. Behera, learned Addl. Government Advocate for the State, would argue that the State authorities have acted entirely in line with the instructions issued by the MoE and not on their own. He further argues that there is no question of forcing any person to submit personal information in the form of Aadhaar for creation of APAAR ID. The students/parents can always refuse their consent.

13. Mr. S.K. Sarangi, learned Senior counsel would argue that the School has issued the letter in question acting in terms of the Government instructions. The School has itself not insisted upon any student/parent to submit Aadhaar details mandatorily. It is always open to



the students/parents to not comply with such requirement.

Analysis and findings of the Court.

14. The first thing that becomes apparent upon considering the rival contentions is that the present case is not adversarial in nature at all. This is being said for the reason that while the Petitioners apprehend that the APAAR initiative is a mandatory one; all the Opposite Parties have unequivocally stated that the same is voluntary in nature. In such view of the matter, it would not be necessary for this Court to examine the relevant orders/guidelines/instructions issued by the Central and State Governments to see whether the initiative is voluntary or mandatory in nature. But then, certain apprehensions have been raised by the Petitioners mainly to the effect that though projected as voluntary, in the absence of an option to not submit to the scheme, it, in effect, becomes mandatory in nature.

15. Before proceeding further, it would be proper to keep in perspective the law laid down by the Supreme Court with regard to the children's right to privacy in



K.S. Puttaswamy (Supra). The following observations would be relevant:

“380. We have held that Aadhaar is a voluntary scheme and, therefore, the Aadhaar number is to be allotted to an individual on his “consent”. No doubt, for the purposes of utilising any of the benefits under Section 7 of the Aadhaar Act, it becomes necessary to have Aadhaar number. However, the question is as to whether it can be extended to children? It is more so when they are not under legal capacity to provide any “consent” under the law.

381. Article 21-A of the Constitution guarantees right to education and makes it fundamental right of the children between 6 years and 14 years of age. Such a right cannot be taken away by imposing requirement of holding Aadhaar card, upon the children.

382. In view thereof, admission of a child in his school cannot be covered under Section 7 of the Aadhaar Act as it is neither subsidy nor service. No doubt, the expression “benefit” occurring in Section 7 is very wide. At the same time, it has to be given restrictive meaning and the admission of children in the schools, when they have fundamental right to education, would not be covered by Section 7, in our considered view. The respondents made an attempt to justify the linkage of Aadhaar with child information and records by arguing that there have been several instances of either impersonations at examinations or bogus admissions which have the potential to pilfer away various scholarship schemes which the Government provides for weaker sections from time to time. If this is the objective, then also requirement of Aadhaar cannot be insisted at the time of admission but only at the stage of application for government scholarships. Insofar as impersonation at examination is concerned, that can be easily checked and contained by other means with effective checks and balances. When there are alternative means, insistence on Aadhaar would not satisfy the test of proportionality. This would violate the privacy right of the children importance whereto is given by the



Constitution Bench in *K.S. Puttaswamy [K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1]* in the following words: (SCC p. 630, para 633)

“633. Children around the world create perpetual digital footprints on social network websites on a 24/7 basis as they learn their “ABCs”: Apple, Bluetooth, and Chat followed by download, e-mail, Facebook, Google, Hotmail, and Instagram. [Michael L. Rustad, SannaKulevska, “Reconceptualizing the right to be forgotten to enable transatlantic data flow”, (2015) 28 Harv JL & Tech 349.] They should not be subjected to the consequences of their childish mistakes and naivety, their entire life. Privacy of children will require special protection not just in the context of the virtual world, but also the real world.”

384. *It has to be kept in mind that when the children are incapable of giving consent, foisting compulsion of having Aadhaar card upon them would be totally disproportionate and would fail to meet the proportionality test. As the law exists today, a child can hold property, operate a bank account, be eligible to be a nominee in an insurance policy or a bank account or have any financial transaction only through a legal guardian who has to be a major of sound mind. In cases where a child is in conflict with the law, the child is given a special criminal trial under the Juvenile Justice (Care and Protection of Children) Act, 2015 and there is a mandatory requirement for the records to be kept confidential and destroyed so that the criminal record of the child is not maintained. This is the position in law contained in Section 11 of the Contract Act, 1872, Section 45-ZA of the Banking Regulation Act, 1949, Section 39 of the Insurance Act, 1938, Section 90 of the Penal Code, 1860 (which provides that consent of the child who is under 12 years of age shall not be regarded as consent), etc. Thus, when a child is not competent to contract; not in a position to consent; barred from transferring property; prohibited from taking employment; and not allowed to open/operate bank accounts and, as a consequence, not in a position to negotiate her rights, thirsting upon compulsory requirement of holding Aadhaar would be an inviable inroad into their fundamental rights under Article 21. The restriction imposed on such a*



right in the form of an Aadhaar cannot be treated as constitutionally justified.”

16. The consent form appended to the letter dated 11.10.2023 shall now be examined. The same is reproduced below for convenience:

Annexure-I

CONSENT FORM
(TO BE FILLED BY THE PARENT)

I..... parent /guardian of (name of the child) of Class / Section..... Admission No..... R/o (Resident of)..... voluntarily give my consent as YES / No..... to share his/her Aadhaar Number and demographic information issued by UIDAI with Ministry of Education for the sole purpose of creation of APAAR ID and for the following intents and purposes.

I understand that my wards APAAR number may be used and shared for limited purposes as may be notified by Ministry of Education from time-to-time for the educational and related activities. Further I am also aware that my wards personal identifiable information (Name, Address, Age, Date of Birth, Gender, and Photograph) may be made available to entities engaged in various educational activities such as UDISE+ database, scholarships, maintenance academic records, and other stakeholders like Educational Institutions and recruitment agencies.

I authorize Ministry of Education to use my wards Aadhaar number for performing Aadhar based authentication with UIDAI as per provision of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits, and Services) Act, 2016 for the aforesaid purpose. I understand that UIDAI will share my wards e-KYV details, or response of “Yes” with Ministry of Education upon successful authentication.

I understand that the information shared by me through consent shall be kept as Confidential Information and the secrecy of the same shall be maintained and this information shall not be divulged, at any time to any third party except as may be compelled by any court or agency of competent jurisdiction, or as otherwise required by law, and shall also ensure that same is not disclosed to any person voluntarily, accidentally or by mistake.

I understand that I can withdraw my consent to all or any of the purposes at any time by and on withdrawal of my consent, the processing of my shared information will stop, however, any personal data already been processed shall remain unaffected on such withdrawal of consent.

SIGNATURE (Parent):

DATE :



17. According to the learned DSGI, the last clause permitting the parent to withdraw consent is adequate to assuage the apprehension of the Petitioners. Similar argument is made by the State counsel. Learned counsel for the Petitioners however, disagrees by submitting that the aforesaid clause would come into play only after the consent has been given. The question is not so much regarding the permissibility of withdrawal of consent at the subsequent stage than giving of consent at the first instance. Similar consent form has been enclosed to letter dated 21.9.2024 of the State Project Director, OSEPA. The same form has also been enclosed to letter dated 28.12.2024 of Sai International School.

18. A careful reading of the different clauses of the consent form reveals that there is no option to refuse consent at the initial stage. Nothing has been placed on record as to the consequence that would entail upon refusal of a parent to submit the consent form. The withdrawal of consent as per the last paragraph of the consent form cannot be treated as giving an effective right to the parent to protect his privacy because by such



time the consent would already have been given. What the Petitioners are concerned with is the right to refuse consent altogether at the outset. Since the right to privacy is a fundamental right and though not absolute can only be subject to reasonable restrictions, the same has to be protected and respected by the State at all costs. As already stated above, the principle was acknowledged and reiterated in no uncertain terms by the Supreme Court in ***K.S. Puttaswamy (Supra)***. Since the concerned authorities agree in unison that the initiative is voluntary in nature, this Court can only agree with the argument advanced by the learned counsel for the Petitioners that the model consent form has not been worded strictly in consonance with the avowed objective of making the scheme voluntary. In other words, the model consent form does not appear to have been happily worded in this respect at all. If it is intended to be a voluntary act, appropriate provisions clearly specifying such fact ought to have been incorporated in the form by providing option to the parents to refuse to submit their consent or to opt out of



it entirely. Learned counsel for the Petitioners has submitted a model consent form containing a refusal of consent clause. This Court has perused the same and finds it to be in consonance with the professed stand of the authorities regarding voluntary nature of the scheme. There is no reason why such a clause cannot be incorporated in the model consent form.

19. Thus, from a conspectus of the analysis made hereinbefore, this Court finds that the Petitioners have made out a good case for interference by this Court. Resultantly, the Writ Petition is allowed. The opposite party-authorities are directed to consider amendment of the model consent form to include an opt out/refusal of consent option therein. The model consent form incorporating such changes as provided by learned counsel for the Petitioners to the learned DSGI may also be considered. Necessary orders in this regard shall be passed within two months from today.

Ashok Kumar Behera

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Sashikanta Mishra,
Judge