

Aadhaar Hearing: Justice Chandrachud - Aadhaar seen by Govt. as enabler for every Indian who does not possess Single Identity Proof

February 13,2018:

Senior Advocate Kapil Sibal,“If you have no proof of identity, you cannot get Aadhaar in the first place”.

On Tuesday, SC Judge Justice Chandrachud stated that,"Aadhaar may be seen by the government as an enabler for every Indian who does not possess even a single proof of identity".

He further added that,“You may be wrong to assume that every Indian has one or the other proof of identity. Suppose the government was to assert that there is a large segment of society, like migrant labourers, who have absolutely no proof of identity... If that is so, then the Aadhaar policy of the government is an enabler”.

Justice Chandrachud who is part of the 5 Judge Constitution Bench added that,“Aadhaar provides people with no proof of identity an opportunity to be enabled with an identity to access their entitlements”.

To this, Senior Advocate Kapil Sibal stated that,“If you have no proof of identity, you cannot get Aadhaar in the first place. Let us get this clear. Intent of the Aadhaar Act is not to give anyone the benefit of an identity. The Act is a mechanism to authenticate identities. And even then, Why should the authentication of identity be linked to biometrics?”

To this Justice A.K. Sikri pointed out that the Biometrics was sought because Government viewed Aadhaar as a panacea for the problem of the fake identities.

Justice Sikri further added that,“The government’s rationale seems to be that with other identity documents open to duplicity, let us have at least one identity with biometrics”.

Arguments were led on how government has made Aadhaar only proof of identity, to negation of all others like ration cards to passports to voter ID card, to avail benefits, welfare, subsidies and services.

Justice Chandrachud stated that,“So, ultimately you are saying that the violation in Aadhaar is an absence of choice. That is, Aadhaar takes away the right of a citizen to establish his identity by any mode”.

Kapil Sibal agreed to this, stating that Aadhaar underscores an endeavour to make “the State our master and we its underlings”.

Sibal submitted that restricting identity of citizen to one document Aadhaar was unconstitutional. State takes away a citizen’s fundamental right to choice under Article 21 of the Constitution in order to enable him to exercise another fundamental right, for example, the right to travel.

Arguments will now continue on February 15,2018.