***Citizens Forum for Civil Liberties (CFCL)***

To

Shri Prakash Javadekar

Union Minister of Human Resource Development

Government of India

New Delhi

July 12, 2016

Subject- Hon’ble Supreme Court’s order on 12 digit biometric Unique Identification (UID)/Aadhaar Number keeps UID/Aadhaar voluntary

Sir,

Pursuant to my letter dated 2nd July, 2016 sent to Prof. (Dr) Jaspal S. Sandhu, Secretary, University Grants Commission (UGC) with reference to D.O. No. F. 8-21201 6(SA-l I l-DBT-Aadhaar) dated 29th June, 2016 communicated to the Vice-Chancellor of all Universities/Institutes, this is to draw your attention towards order dated 15.10.2015 passed by the Hon’ble Supreme Court of India in the ‘UID/Aadhaar’ matter, i.e. *Justice (retd.) K.S. Puttuswamy* v. *UOI & Ors.*, WP (C) No. 494/2012 and related petitions. **The order is attached for your perusal and consideration**. The circular of UGC which is in manifest violation of Hon’ble Court’s order is available at <http://www.ugc.ac.in/pdfnews/4792000_Aadhaar-.pdf>

I wish to bring to your notice that the said AADHAAR/ UID scheme is presently under challenge before the Hon’ble Supreme Court of India vide a batch of petitions led by W.P (C) 494/2012 and the Hon’ble Court after hearing the parties has passed a series of interim orders starting the 23rd September 2013 and the last of which was passed on 15.10.2015 which, *inter alia*, states as follows.

***4.We impress upon the Union of India that it shall strictly follow all the earlier orders passed by this Court commencing from 23.09.2013.***

***5. We will also make it clear that the Aadhaar card Scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other.***

In the related case the Hon'ble Supreme Court in SLP (CRl) 2524/2014 Unique Identification Authority of India Vs CBI passed an order dated 24.3.2014 which reads as follows:

                        “More so, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled. All the authorities are 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 this Court forthwith. Tag and list the matter with main mater i.e. WP (C) No. 494/2012.”

 I wish to bring to your attention the fact that Aadhaar Act 2016 has not come into force as yet despite notification in the Gazette because of Section 1 (3) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. Section 1 (3) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 reads: "It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may, be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision." Thus, it is abundantly clear that Central Government has not notified 'coming into force' of Aadhaar Act, 2016 as yet.

All the orders of Supreme Court are still in force as per Court's order of 15th October, 2015 and they will remain in force till the time court itself does not waive them. **The Hon’ble Court’s order makes it clear that UID/ aadhaar remains voluntary.**

Therefore, no one can be asked to produce UID/ aadhaar for disbursement of all Government subsidies/Scholarships/Fellowships which are to be disbursed directly into the beneficiaries' account.

The facts relevant to D.O. No. F. 8-21201 6 (SA-l I l-DBT-Aadhaar) are as under:

1. Central Government has not notified 'coming into force' of Aadhaar Act, 2016
2. UID/Aadhaar cannot be made compulsory because of orders of Hon’ble Supreme Court
3. Passage of the Act by Parliament does not automatically imply that any agency can make UID/Aadhaar compulsory disregarding Hon’ble Court’s orders.
4. Even after notification of 'coming into force' of Aadhaar Act 2016 UID/Aadhaar, it cannot be made compulsory unless Hon’ble Supreme Court waives its order on request from the Union of India

In view of the above mentioned facts, I wish to request you to advise UGC to revise its D.O. No. F. 8-21201 6(SA-l I l-DBT-Aadhaar) before Hon’ble Court finds out that UGC is violating its unambiguous order.  Your intervention can save students from unnecessary hardships.

With warm regards

Yours Sincerely

Gopal Krishna

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\*Citizens Forum for Civil Liberties (CFCL) has been working on the issue of Unique Identification (UID) Number branded as “Aadhaar” since 2010. CFCL appeared as an expert to give testimony in front of Parliamentary Standing Committee on Finance which examined the National Identification Authority of India Bill, 2010 (Aadhaar Bill, 2010). A series of articles on the subject are available at <http://www.moneylife.in/author/gopal-krishna.html>

Cc

Prof. Ved Prakash, Chairman, UGC

Prof. (Dr) Jaspal S. Sandhu, Secretary, UGC