

General Studies-2; Topic– Indian polity: Issues

Supreme Court's Aadhaar verdict

1) Introduction

- In a 4:1 verdict, the Supreme Court has declared the Aadhaar Act, 2016, constitutionally valid.
- The five-judge bench ruled that the Aadhaar programme served the “larger public interest” in ensuring that the poor have access to resources.
- The court said, Aadhaar does not infringe on an individual's right to privacy
- It found that the programme eliminated any chance of duplication and that enrolment was foolproof.
- The court, however, struck down several sections of the Act.

2) What do we need Aadhaar for?

- Aadhaar is mandatory to avail benefits of welfare schemes, to file Income Tax returns and it is mandatory to link Aadhaar with PAN cards.
- Is it not mandatory to provide Aadhaar to open bank accounts, get SIM cards, or for services from private companies.
- Aadhaar is also not necessary for school admissions or NEET, UGC and CBSE examinations.
- For the enrolment of children under the Aadhaar Act, it would be essential to have the consent of their parents/guardian.
- On attaining the age of majority, such children with the consent of their parents, shall be given the right to exit from Aadhaar, if they so choose.

3) Supreme Court Verdict

- The SC has held the biometric-based identification programme, Aadhaar, to be constitutionally valid.
- It said, obtaining Aadhaar continues to remain voluntary.
- Concerns about privacy of personal data have been addressed.
- SC asked the Central government to introduce a robust data protection law as soon as possible based on the recommendations of the BN Srikrishna committee report.
- It retains the primacy of its use in distribution of subsidies and social welfare benefits to the poor.
- It stated that Aadhaar empowers the marginalised sections of society and gave them an identity and dignity.
- The court also noted that the failure rate of the scheme was just 0.232%.
- The remedy is to plug the loopholes rather than axe the project, the Bench said.
- SC felt that the technology has become a vital tool for ensuring good governance in a welfare state.
- The Majority Judgement upheld the passage of the Aadhaar Act as a Money Bill.
- SC has made exception for children saying that no child can be denied benefits of any scheme if he or she doesn't have Aadhaar card.

4) Key Takeaways from the Judgement

- The verdict marks the end of any confusion regarding the services for which Aadhaar is mandated, and by whom.
- The Court has restored the original intent of the programme: to plug leakages in subsidy schemes and to have better targeting of welfare benefits.
- The judgment narrows the scope of Aadhaar but provides a framework within which it can work.

5) Highlights of the Minority Judgment

- Justice D Y Chandrachud gave the dissenting minority judgment with the following observations.
- Aadhaar poses a risk of potential surveillance activities.
- Passing of a Bill as a Money Bill, when it does not qualify for it, damages the balance of bicameralism.
- Denial of benefits arising out of any social security rights is violative of human dignity and impermissible under the constitutional scheme.
- The biometric authentication failures under Aadhaar have led to denial of rights.

6) Arguments in Favour of Aadhaar

- Aadhaar would help weed out ghost beneficiaries of welfare schemes.
- It will help to end corruption.
- It acts as an enabler of various facets of the right to life of millions of Indian residents including their right to food, the right to livelihood, the right to receive pensions and other social assistance benefits.
- These schemes involve 3% percentage of the GDP and involve a huge amount of public money.
- It has saved the government crores of rupees in fraud and wastage.
- Aadhaar is giving dignity to marginalised sections of the society and hence the interests outweigh the concerns.
- It empowers the poor and marginalised.

7) Impact

- Many businesses are likely to be affected adversely with the decision.
- With respect to access to welfare schemes, the question of exclusion and discrimination may be raised again.
- The cost of acquiring subscribers could go up for telecom companies and new connections may be delayed.
- Fintech start-ups, which built entire business models around Aadhaar may be hit.
- Could lead to rise in costs for banks, widen account opening timeline.

8) Conclusion

- Aadhaar is possibly too big to fail.
- The majority ruling called Aadhaar “a document of empowerment”.
- It is now for the government to focus on the implementation of this ruling.