

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, CHANDIGARH.**

First Appeal No.380 of 2019

Date of institution : 26.06.2019

Order reserved on : 30.06.2020

Date of decision : 09.07.2020

1. Unique Identification Authority of India, GOI (Government of India) having its head office at Bangla Sahib Road, Behind Kali Mandir, Gole Market, New Delhi-110001, through its Principal Officer/Authorized Signatory.
2. Unique Identification Authority of India, GOI (Government of India) having its Regional Office at SCO 139-141, 3rd and 4th Floor, Sector 17-C, Chandigarh 160017, through its Principal Officer/Authorized Signatory.

....Appellants/Opposite Parties

Versus

Sehajpreet Singh aged 3 years (date of birth 29.01.2016) minor son of S. Jatinder Singh, resident of H.No.1328, Main Bazar, Chowk Pragdass, Amritsar at present at House No.24, Baba Budhi Ji Nagar, Tarn Taran Road, Amritsar, through his real father/natural guardian/next friend S. Jatinder Singh who has no interest adverse to the minor. 9915498150.

....Respondent/Complainant

**First Appeal against the order dated
27.05.2019 passed by District Consumer
Disputes Redressal Forum, Amritsar.**

Quorum:-

Mr. Rajinder Kumar Goyal, Presiding Member

Mrs. Kiran Sibal, Member

Present:-

For the appellants : Sh. Vaneet Mittal, Advocate

For the respondent : Ex-parte

KIRAN SIBAL, MEMBER

This appeal has been filed by the appellants/opposite parties (in short as "OPs") against the order dated 27.05.2019 passed by District Consumer Disputes Redressal Forum, Amritsar (in short, "the District Forum"), whereby the complaint filed by the

respondent/complainant, under Section 12 of the Consumer Protection Act, 1986 (in short, "the Act"), was partly allowed and OPs were directed to pay compensation to the tune of Rs.2000/- and further to pay Rs.2000/- as litigation expenses.

Facts of the Complaint

2. The brief facts of the case are that complainant Sehajpreet Singh (minor) filed the complaint through his father Jatinder Singh, being natural guardian. The allegations were that since the Aadhar card of the complainant has not yet been prepared and issued by OPs, as such the complainant alongwith his father approached the concerned office of the OP at Amritsar and requested for preparing and issuing the Aadhar card in his name and submitted all the requisite documents to the office and also deposited the requisite fee of Rs.50/-. OP issued him enrolment No. 2189/54885/29835 dated 15.12.2017. As such complainant hired the services of the OPs by depositing fee of Rs.50/-, as a consumer as defined under the Consumer Protection Act, 1986. On 26.01.2018, father of complainant received message from OP no.1 that applied adhar card has been rejected by the Authorities. Father of complainant asked OP no.1 about the details of rejection. OP no.1 replied that the Adhar Card already exists in the name of complainant and issued on 31.12.2015 at 16:32:34 hours, bearing no.2029 24037 00092. That Adhar Card was issued by OPs much before the date of birth of complainant. The father of complainant requested OPs to do the needful, as he never applied for Adhar card in the name of his son, but OPs flatly refused to

do the same. The complainant prayed that OPs be directed to prepare and issue the Adhar Card in favor of complainant immediately and to pay compensation and litigation expenses to the tune of Rs.10,000/-.

Defence of the Opposite Parties

3. Upon notice, OPs appeared on 20.05.2019, through Sh. Raj Kumar Section Officer of OPs and also brought the Aadhar Card of Sehajpreet Singh after making the necessary correction and handed over the same to the father of the complainant Sh.Jatinder Singh. OPs did not file any reply.

Evidence of the Parties and Finding of the District Forum

4. In support of his claim, the complainant attached with complaint affidavit of his father Ex.C-1, birth certificate Ex.C-2, receipt/Enrolment certificate Ex.C-3 and copy of Aadhar card of his father Ex.C-4.

5. The District Forum, after going through the record and hearing learned counsel for the complainant and Sh. Raj Kumar, Section Officer of OPs, partly allowed the complaint, vide impugned order. Hence, this appeal.

6. Notice of the appeal was issued to the respondent/complainant, but he did not appear despite service and, as such, was proceeded against ex parte, vide order dated 25.09.2019.

Contentions of the Parties

7. We have heard learned counsel for the appellants/OPs and have carefully gone through the records of the case.

8. Learned counsel for the appellants/opposite parties has vehemently contended that Unique Identification Authority of India (UIDAI) was established in the year 2009, as an attached office of the then Planning Commission (now NITI Aayog), vide its Gazette Notification No.-A-43011/02/2009-Admn.I, dated 28th January, 2009. Subsequently, the Government received the Allocation of Business Rules on 12 September, 2015, to attach UIDAI to the then Department of Electronics & Information Technology (DeitY), Ministry of Communication and Information Technology, now Ministry of Electronics & Information Technology (MeitY). On 26 March 2016, the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 ("Aadhaar Act 2016") was notified in the Gazette of India. Learned counsel for appellant strongly contended that the Unique Identification Authority of India (UIDAI) is a statutory authority established under the provisions of the Aadhaar Act, 2016, under the Ministry of Electronics and Information Technology (Meity). He further argued that the District Forum failed to consider the fact that the appellant has not charged even a single penny from the respondent for the generation of the Aadhar Card and this fact was very well brought into the knowledge of the District Forum by the official of the appellant. Even from receipt/enrolment certificate (Ex.C-3) attached by the respondent/complainant, it can be easily made out that no fee for the generation of the Aadhar Card has been taken from the respondent/complainant. Moreover, the appellant had already handed over the Aadhar card after making necessary correction in it,

which was duly accepted by the complainant, as such there was no need to partly allow the said complaint and the same should have been disposed off as the main relief claimed by the complainant had already been satisfied, as such the impugned order is liable to be modified and the relief awarded to the complainant/respondent be set-aside. Averting on the similar lines, as pleaded in the appeal, learned counsel for appellant prayed for dismissal of the complaint.

Consideration of Contentions

9. We have given our thoughtful consideration to the contentions raised by the learned counsel for the appellants/opposite parties and have also perused the record of the case.

10. Admittedly, the complainant (minor) applied for Aadhar card, through his father, Vide Ex.C-3 on 15.12.2017, but OPs rejected the Aadhar Card of the complainant on the ground that it has already issued on 31.12.2015. The complainant's father requested OPs that date of birth of complainant is 29.01.2016, as such the question of issuance of Aadhar Card on 31.12.2015 does not arise. After receipt of notice of complaint, Sh. Raj Kumar, Section Officer appeared on behalf of OPs on 20.05.2019 and on the same day he handed over the Aadhar Card to the father of the complainant.

11. The only legal question to be determined raised in this appeal is, whether the complainant falls under the definition of 'consumer' and whether the duties of the UIDAI under the definition of 'service', as defined in the Act?

12. This issue is no more res integra. The issuance of the Aadhar Card or making any correction in it by the Central Government or by any authority empowered under the Aadhaar Act, 2016, which is a sovereign act, which has to be performed by the authorities according to the prescribed rules. Every 12 numbered identification number (Aadhar Card) is issued to a resident after he or she undergoes the process of Aadhaar enrolment inter-alia by submitting his/her demographic and biometric information, which is processed by the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it. To achieve the primary object of identity proof, there are various checks and balances to avoid any duplication. In the present case, the presence of adverse feature, i.e. rejection of Aadhar Card of complainant that the Aadhar card in the name of complainant had already been prepared and issued. Due to this suspicion in the minds of OPs, they rejected the Aadhar card of complainant. The Aadhar Card is very important document and as per the provisions of the said Aadhaar Act, 2016, it is to be issued or any correction is to be made therein by the Central Identities Data Repository after satisfying about a number of facts. If while verifying all those facts, even a thin line of suspicion appears, the Authority can be said to be justified in rejecting to issue the Aadhar Card or effecting corrections therein. In the present case, OPs after satisfying themselves issued the Aadhar Card to the complainant during the proceedings of the case. OPs rejected the Aadhaar Card of

complainant initially to avoid any duplication of Aadhaar Card. We are of the opinion that there is no deficiency in service on the part of OPs in this case. We have also perused the document Ex.C-3 produced on record by complainant, wherein it has been specifically mentioned that enrolment for Aadhaar is free of cost. The UIDAI has not charged any fee from complainant, as it prove on record vide Ex.C-3. But while deciding the complaint, the District Forum has ignored this important point. Section 2(1)(d)(i) of the C.P. Act is reproduced as under:-

“(d) "consumer" means any person who—

(i) *buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose;*”

In this case, the complainant has not produced on record any receipt or evidence that OPs received any consideration for processing his enrolment for Aadhaar. Whereas from Ex.C-3, it clears that enrolment for Aadhar is free of cost. In these circumstances, the dispute raised by the complainant in the complaint does not constitute a consumer dispute and he does not fall under the definition of 'consumer' as contained in Section 2(1) (d) of the Act.

13. Another point of dispute raised by the appellants and to be decided by us is whether services provided by a Statutory Authority/Body comes under the C.P. Act or not. There is no doubt that Unique Identification Authority of India (UIDAI) is a statutory authority

established under the provisions of the Aadhaar Act, 2016, under the Ministry of Electronics and Information Technology (MeitY). The matter is not resintegra, the Hon'ble Supreme Court has already decided this point in "**K.K. Kataria v. Asstt. Regional Passport Office**" 1998 (1) CCC-201, wherein it has been held that "passport is not a commodity, which can be purchased or sold for consideration, but it is only a nature of permission granted by the sovereign to its citizens to go outside the country. It was further held that the function of the Central Government, which is required to be performed under the Passport Act, could not be equated with the definition of 'service' rendered to the consumer as defined in the Act." In this case UIDAI is Statutory Authority performing functions similar to Regional Passport Officer, who performed the function of the Central Government under the Passport Act. As such the above authority is fully applicable in this case, as the statutory function of Central Government is performed by the UIDAI under Aadhaar Act, 2016 to empower residents of India with a unique identity and digital platform only for the purpose of "identity proof" free of cost.

14. In view of the law laid down in the above noted authority as well as the facts and circumstances discussed above, it is clear that the service provided by the UIDAI cannot be equated with the meaning of 'service' and the complainant cannot be held to be a 'consumer', as defined in the Act. The District Forum failed to take notice of all these facts, while passing the impugned order.

15. In view of the above discussion, the appeal is allowed and impugned order is set aside. Consequently, the complaint filed by the complainant is dismissed, being not maintainable.

16. The appellant had deposited an amount of Rs.2000/- at the time of filing the appeal with this Commission This amount alongwith interest, which accrued thereon, if any, be remitted by the Registry to the District Forum forthwith. The appellant may approach the District Forum for the release of the above amount and the District Forum may pass the appropriate order in this regard after the expiry of limitation period in accordance with law.

17. The appeal could not be decided within the statutory period due to heavy pendency of work and less staff.

**(RAJINDER KUMAR GOYAL)
PRESIDING MEMBER**

**(KIRAN SIBAL)
MEMBER**

**July 09, 2020.
(MM)**