

F.No. K-11022/764/2019-UIDAI(Auth-II)
Government of India,
Ministry of Electronics and Information Technology,
Unique Identification Authority of India
(Authentication Division)

3rd Floor, Bangla Sahib Road,
UIDAI Hqrs, Near Kali Mata Mandir,
New Delhi- 110001

Dated: 27/10/2021

OFFICE MEMORANDUM

Subject :- Treating different Departments of Government of India, administering Section 7 or Section 4(4)(b)(ii) schemes, as a single entity under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016- reg.

UIDAI is in receipt of communications from several Government entities to effectively use Aadhaar in the interest of good governance to promote ease of living of residents and enabling better access to welfare services for them. A question has been raised whether different Departments of the Central Government, administering Section 7 or Section 4(4)(b)(ii) schemes, can be treated as a single entity under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

2. In this regard it is intimated that Article 77 of the Constitution of India provides that all business conducted by the executive shall be expressed to be taken in the name of the President, and the President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business. Article 77 is extracted below for reference:

77. Conduct of business of the Government of India.-

(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business."

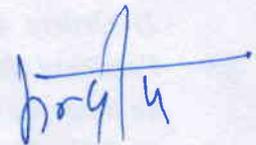
3. Further, it is settled law that the Government of India is a single legal entity, and the different Ministries and Departments of the Government of India are all a part of the Government of India. This has been so held by the Supreme Court in ***Villianur Iyarkkai***

Padukappu Maiyam v. Union of India and Ors. (2010) 15 SCC 230 (in paragraph 12), which is extracted below:

"11. The basic and fundamental fallacy from which the argument that the Ministry of Home Affairs was not impleaded as a party to the writ petition filed before the High Court of Madras and therefore relief claimed in the application should be granted, suffers is that the Union of India was represented before the Court by one of its departments. Another department, after the judgment is delivered cannot be heard to say that it was not impleaded as a party and therefore the judgment delivered by a court of competent jurisdiction is not binding on the said department. If the courts of law start entertaining such a specious plea, there would be no end to the litigation where the Union of India and or the State Government concerned is impleaded as a party nor would there be finality of any judgment whether it is delivered by the High Court or by this Court.

12. The Union of India is a legal entity. It cannot be split into various departments for the purpose of being arrayed as a party in a litigation before a court of law. Thus, the Union of India was duly represented not only before the High Court of Madras but also before this Court. It would be unjust to grant prayer of modification/recall of the order passed in LA No. 2 of 2009. Even if it is assumed for the sake of argument that the Ministry of Home Affairs was the proper and appropriate department of the Union of India to be impleaded as a party in the writ petition which was filed before the High Court of Madras, the negligence is palpable and delay on the part of the said Ministry would be fatal."

4. Therefore, the different Ministries and Departments of the Government of India, can be treated as a single entity, i.e. the "Central Government" for effective formulation of various government schemes and selection of beneficiaries.
5. However, the various provisions of Aadhaar Act and Regulations notified thereunder regarding data protection, data storage and privacy etc. and in particular, seeking consent, needs to be complied with. Further, it may be ensured that at the time of authentication for the delivery of services, benefits and subsidies, the identity information is used/disclosed only for purposes informed in writing to the Aadhaar number holder.
6. This issues with the approval of CEO, UIDAI



Dr. Mandeep Singh Lamba
Deputy Director

To,
The Secretary

Copy To,
The Secretary
MeitY - For kind information please