

ITEM NO.501

COURT NO.1

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 804/2017

(Arising out of impugned final judgment and order dated 23-09-2016
in WPC No. 7663/2016 passed by the High Court Of Delhi At New
Delhi)

KARMANYA SINGH SAREEN & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR application for directions and application for directions)

WITH

W.P. (C) No. 347/2017 (PIL-W)

Date : 06-09-2017 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE AMITAVA ROY
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Ms. Madhavi Divan, Adv.
Mr. Prabhas Bajaj, Adv.
Ms. Surbhi Mehta, Adv.
Mr. Tejveer Bhatia, Adv.
Mr. Anusuya Mehrotra, Adv.
Mr. T. Singh Dev, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Gaurav Sharma, AOR
Ms. Amandeep Kaur, Adv.
Ms. Kritika Bhardwaj, Adv.

Mr. Mahesh Jethmalani, Sr. Adv.
Mr. Pallav Mongia, Petitioner-in-person
Mr. Ravi Sharma, Adv.
Mr. Gunjan Mangla, Adv.
Mr. Abhinav Goyal, Adv.
Mr. Sabyasachi Mukherjee, Adv.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Arvind Datar, Sr. Adv.
Mr. Sidharth Luthra, Sr. Adv.
Mr. Tejas Karia, Adv.

Mr. Vivek Reddy, Adv.
 Ms. Saanjh Purohit, Adv.
 Ms. Richa Srivastava, Adv.
 Mr. shashank Mishra, Adv.
 Mr. Tejas Chabra, Adv.
 Mr. Avinash Reddy, Adv.
 Mr. Koshy John, Adv.
 Mr. Raghav Tankha, Adv.
 Ms. Tara Narula, Adv.
 Mr. S. S. Shroff, AOR

Mr. Sanjay Kapur, AOR
 Ms. Megha Karnwal, Adv.
 Ms. Mansi Kapur, Adv.
 Ms. Shubhra Kapur, Adv.

Mr. Tushar Mehta, ASG
 Mr. A.K. Sanghi, Sr. Adv.
 Ms. Vibha Dutta Makhija, Adv.
 Ms. Sadhna Sandhu, Adv.
 Mr. Swarupama Chaturvedi,
 Mr. Rajat Nair, Adv.
 Ms. Disha Vaish, Adv.
 Mr. Vijay Prakash, Adv.
 Mr. Gurmeet Singh Makker, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
 Ms. Rinda Bhandari, Adv.
 Mr. N. Sai Vinod, Adv.
 Mr. Ravi Raghunathan, Adv.
 Mr. Mukunda Rao, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

Mr. Tushar Mehta, learned Additional Solicitor General appearing on behalf of the Union of India has filed the Office Memorandum dated 31.7.2017 which is to the following effect:

"OFFICE MEMORANDUM

Subject: Constitution of a Committee of Experts to deliberate on a data protection framework for India.

The Government of India is cognizant of the growing importance of data protection in India. The need to ensure growth of the digital economy while keeping personal data of citizens secure and protected is of utmost importance.

2. It has thus been decided to constitute a Committee of Experts under the Chairmanship of Justice B.N. Srikrishna, Former Judge, Supreme Court of India, to identify key data protection issues in India and recommend methods of addressing them. The constitution of the group and terms of reference are as follows:

- | | | |
|----|---|--------------|
| a) | Justice B N Srikrishna, Former Judge,
Supreme Court of India | -Chairperson |
| b) | Smt. Aruna Sundararajan, Secretary,
Department of Telecom | -Member |
| c) | Dr.Ajay Bhushan Pandey, CEO, UIDAI | -Member |
| d) | Dr.Ajay Kumar, Addl.Secretary, MeitY | -Member |
| e) | Prof Rajat Moona, Director, IIT,Raipur | -Member |
| f) | Dr.Gulshan Rai,
National Cyber Security Coordinator | -Member |
| g) | Prof.Rishiksha T.Krishnan,
Director, IIM,Indore | -Member |
| h) | Dr.Arghya Sengupta, Research Director,
Vidhi Centre for Legal Policy | -Member |
| I) | Ms.Rama Vedashree, CEO, DSCI | -Member |
| j) | Joint Secretary, MeitY | -Member |
| | | Convenor |

3. Terms of Reference

- a) To study various issues relating to data protection in India
- b) To make specific suggestions for consideration of the Central Government on principles to be considered for data protection in India and suggest a draft data protection bill.

4. The Committee may co-opt other members in the Group for their specific inputs.

5. MeitY shall in consultation with the Chairperson and members collect necessary information and provide it to the Committee within 8 weeks of the date of this OM to enable it to start its deliberations on the subject.

6. The Committee shall endeavour to submit its report as expeditiously as possible.

7. The expenditure towards TA/DA in connection with the meetings of the group in respect of the official members will be borne by their respective Ministries/Departments. Domestic travel in respect of non-official members would

be permitted by Air India (Business Class) and the expenditure would be met by Meity.”

It is submitted by Mr. Mehta that after the report comes into being, there is a possibility that the law shall be passed regulating the data protection. Mr. Arvind P. Datar, learned senior counsel appearing for the Face Book would submit that the Nine Judges Bench in Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors. (Writ Petition (Civil) No. 494 of 2012 decided on 24.8.2017) has expressed the view that there should be a law with regard to data protection.

At this juncture, Mr. K.V. Vishwanathan, learned senior counsel appearing for the impleaded party and Ms. Madhavi Divan, learned counsel appearing for the petitioner would contend that there should be an ad interim injunction restraining the respondent from sharing the data with the third party.

Mr. Kapil Sibal and Mr. Arvind Datar, learned senior counsel undertake that they will file affidavits with regard to the assertions made by the petitioners. Let the affidavit be filed within four weeks hence. After the affidavits are filed, the matter shall be listed for consideration of passing the interim order. Be it clarified, if the assertions made in the affidavit would not require any kind of intervention by this Court, this Court may not pass any interim order.

Let the matter be listed at 3.00 p.m. on 20.11.2017.

W.P.(C) No. 347 of 2017

Issue notice returnable within four weeks.

(Gulshan Kumar Arora)
Court Master

(Shakti Parkash Sharma)
Assistant Registrar