



Justice K.S. Puttaswamy v. Union of India

-Isha Dhir

CASE DETAILS

- **COURT-** SUPREME COURT
- **BENCH-** 9 BENCH JUDGES
- **CASE TYPE-** CIVIL ORIGINAL JUSTICE, WRIT PETITION (CIVIL) NO. 494 OF 2012
- **DECIDED ON-** 26th SEPTEMBER 2018
- **PARTIES-**
 - **Appellant:** JUSTICE K.S. PUTTASWAMY (RETD)
 - **Respondent:** UNION OF INDIA
- **CITATION-** AIR 2018 SC (SUPP) 1841, 2019 (1) SCC 1

INTRODUCTION

The Case of *KS Puttaswamy v. Union of India, 2018* was a landmark judgment. On the 26th September 2018, the Supreme Court of India decided the case. It is regarded as a landmark decision that gives clarity on the constitutional validity of the AADHAAR Act. The Unique Identification Authority of India (UIDIA) launched the AADHAAR implementation program to ensure corruption-less welfare scheme implementation. In this case, the Supreme Court considered the right to privacy as a Fundamental Right.¹

FACTS OF THE CASE

The main facts of this case was that a new form of identification i.e. Aadhaar card was introduced by the government of India in 2011. At the same time, a new organization was

¹Mihika Kanani, *KS Puttaswamy v. Union of India: Landmark Case on Right to Privacy*, (Mar. 6, 2025), <https://lawctopus.com/clatalogue/clat-pg/ks-puttaswamy-v-union-of-india/>.

also established named the Unique Identification Authority of India (UIDAI) in charge of issuing the cards. A scan of the applicant's fingerprints and retina must be provided by a resident before the application for the card may be processed. In the upcoming years, the government mandated the use of Aadhaar for a variety of social programs.

This Aadhaar program was contested in front of the Supreme Court by K.S. Puttaswamy, a retired judge from the Karnataka High Court. The case was initially heard by a three-judge bench, which recognized the need for a larger bench to address whether privacy was a fundamental right guaranteed by the Constitution.²

EVOLUTION OF THE RIGHT TO PRIVACY IN INDIA

The evolution of the right to privacy in India reflects a gradual judicial movement from literal interpretation of constitution to a more substantive understanding of personal liberty. In **M.P. Sharma v. Satish Chandra (1954)**,³ The Court held that the Indian Constitution did not contain a right to privacy comparable to the Fourth Amendment of the United States Constitution. Hence privacy is not a constitutional or fundamental right.

A similar approach was adopted in **Kharak Singh v. State of Uttar Pradesh (1963)**⁴, which examined the constitutional validity of police surveillance. In this case the majority opinion rejected the existence of a fundamental right to privacy, the minority opinion acknowledged that personal liberty under Article 21.

The constitutional position began to shift significantly after **Maneka Gandhi v. Union of India (1978)**⁵, which fundamentally transformed the interpretation of Article 21. The court asserted that the right to life and personal liberty should be understood in a meaningful sense. After the Maneka Gandhi decision, the Supreme Court progressively recognized numerous unenumerated rights, significantly expanding the substantive content of Article 21.

²Mihika Kanani, *KS Puttaswamy v. Union of India: Landmark Case on Right to Privacy*, (Mar. 6, 2025), <https://lawctopus.com/clatalogue/clat-pg/ks-puttaswamy-v-union-of-india/>.

³ M.P. Sharma v. Satish Chandra (1954)

⁴ Kharak Singh v. State of Uttar Pradesh (1963)

⁵ Maneka Gandhi v. Union of India (1978)

This theoretical uncertainty ultimately culminated in **K.S. Puttaswamy vs Union of India (2017)**⁶ where the Supreme Court recognized that the right to privacy is an internal part of life and personal liberty under Article 21. This judgment overturned all the previous judgments.

⁷ISSUES RAISED ON THIS CASE

- Whether the Aadhaar Project created or had the tendency to create a surveillance state and was unconstitutional on this ground?;
- Whether the Aadhaar Act and Section 139AA of the Income Tax Act, 1961 (IT Act) violated the right to privacy and were unconstitutional on this ground?;
- Whether children could be brought within the sweep of Sections 7 and 8 of the Aadhaar Act?;
- Whether the Aadhaar Act could be passed as a 'Money Bill' within the meaning of Article 110 of the Constitution?; and
- Whether other sections of the Aadhaar Act were unconstitutional?

CONTENTIONS:

PETITIONER

According to Article 21 of the Constitution, the right to privacy is intrinsic part of the '*right to life and personal liberty*' and shall be preserved by the Constitution.

It is necessary to re-evaluate whether the rulings in **M.P. Sharma and Ors. vs. Satish Chandra, District Magistrate, Delhi and Ors.**⁸ and **Kharak Singh vs. State of U.P. and Ors.**⁹ were justified since they infringe on the right to privacy guaranteed by Article 21 of the constitution. The tenets outlined in **A.K. Gopalan vs. the State of Madras**¹⁰ served as the foundation for both M.P. Sharma and Kharak Singh.

⁶ K.S. Puttaswamy vs Union of India (2017)

⁷Naya Legal, Justice K.S. Puttaswamy v. Union Of India (Aadhaar Case,2018), Naya Legal (Sept. 28, 2024), <https://www.nayalegal.com/justice-ks-puttaswamy-v-union-of-india-aadhaar-case2018>.

⁸ M.P. Sharma and Ors. vs. Satish Chandra, District Magistrate, Delhi and Ors. MANU/SC/0018/1954

⁹ Kharak Singh vs. State of U.P. and Ors. MANU/SC/0085/1962

¹⁰ A.K. Gopalan vs. the State of Madras MANU/SC/0012/1950

In **Rustom Cavasjee Cooper vs. Union of India (UOI)**¹¹, 11 judge bench ruled that A.K. Gopalan, who interpreted each clause on Fundamental Rights that requires a separate protection, was not sound law. Therefore, rulings in both M.P. Sharma and Kharak Singh were invalid.

Additionally, they argued that privacy is intertwined with equality, freedom of expression, freedom of movement, and personal liberty in the “*golden triangle*” of Articles 14, 19, and 21.¹²

¹³**RESPONDENT**

The right to privacy is not explicitly protected by the Constitution, hence it is not a constitutionally protected fundamental right.

The cases of M. P. Sharma and Kharak Singh also did not include any application of Article 21 of the Constitution that protects it.

The right to privacy was not intended to be a fundamental right as the Constitution is the repository of basic rights and the Parliament is the sole entity with the authority to amend them.

DECISION OVERVIEW

The nine-judge bench of the Supreme Court recognized that the Constitution guaranteed the right to privacy as an intrinsic part of the right to life and personal liberty under Article 21. The Court overruled M.P. Sharma, and Kharak Singh case. The concurring judgments included specific implications of this right, some of which are below:

J. Chandrachud (on behalf of himself, C.J. Kehar, J. Agrawal and J. Nazeer): This opinion stated that privacy was not surrendered entirely when an individual is in the public sphere. Further, it found that the right to privacy included the negative right against State

¹¹ Rustom Cavasjee Cooper vs. Union of India (UOI) MANU/SC/0011/1970

¹²Justice K.S. Puttaswamy (Retd.) & Anr. V. Union Of India & Ors., The Lawscape (Dec. 2, 2025), <https://www.thelawscape.in/puttaswamy-case-commentary-right-to-privacy/>.

¹³Justice K.S. Puttaswamy and Anr. vs. Union of India (UOI) and Ors., <https://privacylibrary.ccglnud.org/case/justice-ks-puttaswamy-and-ors-vs-union-of-india-uoi-and-ors>.

interference, as in the case of criminalization of homosexuality, as well as the positive right to be protected by the State.

J. Chelameswar: In his opinion, the Judge said that the right to privacy implied a right to refuse medical treatment, a right against forced feeding, the right to consume beef and the right to display symbols of religion in one's personal appearance etc.

J. Bobde: the Judge observed that consent was essential for distribution of inherently personal data such as health records.

J. Nariman: In this concurring opinion, the Judge classified the facets of privacy into non-interference with the individual body, protection of personal information and autonomy over personal choices.

J. Sapre: the Judge said that, in addition to its existence as an independent right, the right to privacy included an individual's rights to freedom of expression and movement and was essential to satisfy the constitutional aims of liberty and fraternity which ensured the dignity of the individual.

J. Kaul: the Judge discussed the right to privacy with respect to protection of informational privacy and the right to preserve personal reputation. He said that the law must provide for data protection and regulate national security exceptions that allow for interception of data by the State.¹⁴

ANALYSIS:

The Puttaswamy judgment is widely regarded as being a landmark decision. The greatest benefit was bringing back consistency to a fractured field of privacy jurisprudence and recognizing that private information is intimately linked with dignity and liberty; the Indian constitutional framework has consequently come in line with contemporary norms of human rights, human dignity and modern democratic practices.

¹⁴Global Freedom of Expression <https://globalfreedomofexpression.columbia.edu/cases/puttaswamy-v-india/>.

Furthermore, the decision led to refer to Puttaswamy for broadening the spectrum of protection available for sexual and gender minorities; for advocating, to paraphrase, for autonomy over one's own body and sexuality and generally, set a solid groundwork to rights-based reasoning.

While it acknowledged the need for "*informational privacy*," the Court did not offer much detail about the nature of any regime which would protect such privacy, deferring specification of the contours of such a scheme to forthcoming legislation. Consequently, the battle over enacting an effective data protection regime continues unabated.

Notwithstanding the reservations, the transformative significance of Puttaswamy can not be exaggerated. Puttaswamy turned India's back on a paternalistic, welfare state model that relied on a top-down approach and adopted one built around a rights-based approach that emphasizes individual autonomy amidst the age of big data and pervasive surveillance.¹⁵

CONCLUSION:

An absolute constitutional right to privacy inherited in Part III of the constitution. M. P. Sharma and the majority in Kharak Singh are hereby overruled, insofar as they take to be contrary. And a right to privacy inheres in the entire concept of liberty-both as concretely articulated through specific articles in Part III, and also as reflected in the "residue" protected by Article 21. It is diffused among the specific articulations in Part III and, *mutatis mutandis*, assume such specific form or forms as the restriction or infringement of privacy entails. All encroachments upon privacy by any body within the purview of Art 12's broad definition of 'state' must withstand the tests normally applied to encroachments upon whichever of the article in Part II has been or is the subject, in whole or in part, of the invasion of privacy.¹⁶

¹⁵Justice K.S. Puttaswamy (Retd.) & Anr. V. Union Of India & Ors., The Lawscap (Dec. 2, 2025), <https://www.thelawscap.in/puttaswamy-case-commentary-right-to-privacy/>.

¹⁶Manupatra Academy, <https://www.manupatracademy.com/legalpost/manu-sc-1044-2017>.