

Bill No. 255 of 2022

THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL, 2022

By

SHRIMATI SUPRIYA SULE, M.P.

A

BILL

further to amend the Representation of the People Act, 1950.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

Amendment of
section 23.

2. In section 23 of the Representation of the People Act, 1950,—

43 of 1950.

(i) after sub-section (5), the following sub-section shall be inserted:—

“(5A) The collected Aadhaar data shall be discarded within three hours of its intended use and in case of violation or any leak of the Aadhaar data, the Election Commission shall be liable for it and may be sued for compensation: 5

Provided that the Electoral Registration Officer may ask the person to permanently link only his Aadhaar Biometric Data to his Election Photo Identity Card (EPIC) and in case of affirmation, shall update the same in Electoral Roll in such manner as may be prescribed:

Provided further that it shall be the duty of Election Commission to keep the collected data safe and it shall not be used for any other purposes or to be shared to any other authority or institution or private entity. 10

Explanation.— For the purposes of this sub-section “liability” means that if any Employee of Election Commission violates provision of this act, the Election Commission shall be the tortfeasor or defendant in the court of law, representing the accused and paying liability as such.”. and, 15

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) (1). The Electoral Registration Officer shall record biometric data of fingerprint and iris scan for every new entry, application, replacement request and alteration request for the EPIC and issue a unique identification number in case of any new entry, replacement request or alteration request: 20

Provided that the Electoral Registration Officer shall first check whether Biometric data of the new entrant, while applying for EPIC is already available in the electoral roll or not.

(2) The biometric identification data along with the original EPIC may be used at the election booth to prevent electoral fraud including preventing multiple or duplicate entry of a person in electoral roll by initiation of identification through biometric data.”. 25

STATEMENT OF OBJECTS AND REASONS

In December 2021, Parliament passed The Election Laws (Amendment) Bill to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951 and to give powers to Electoral Registration Officer to ask Aadhaar number during registration of Voter ID or any further updating. The purpose is to authenticate the entries in electoral roll and to identify registration of name of the same person in the electoral roll of more than one constituency or more than once in the same constituency. However, the Act doesn't mention how exactly Aadhaar number would be used for the purpose. Even though, the submission is voluntary and doesn't attract deletion of the person's name from electoral roll upon non-submission of Aadhaar number but linking Aadhaar ID with Voter ID seems unsettling. Aadhaar number which has the same meaning as assigned to it in 'clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.' contains vast information about the person. It is that Unique Identification number which an Indian resident use in almost every official and unofficial work ranging from applying for jobs and Government schemes to book a hotel room and even to get an entry in a premises.

Given its importance, arises a need for securing its data; but UIDAI has eventually failed in doing so. In 2018, nearly 1.1 billion registered Citizens Aadhaar data was breached and sold for 500 rupees by criminals for 10 minutes. In June 2022 around 11 crore Indian farmers' Aadhaar data was leaked from Pradhan Mantri Kisan Samman Nidhi website. Given the vastness of information linked to one's Aadhaar ID and its unsettling record of being leaked, it seems perturbing to link it to Voter ID. Moreover, the Act doesn't mention the use of one's Aadhaar if the person hadn't provided his Aadhaar ID while registering for the Electoral roll in past. The Act should have envisaged to give Voter ID a Unique Identification itself so as to permanently give a person a single unique number throughout his life which would remain same even if he replace his Voter ID multiple times at multiple places. This Bill tends to do the same.

The Bill makes it mandatory for Electoral Registration Officer to delete Aadhaar data of the person within three hours of its use from the main server but may permanently save Aadhaar biometric data with Voter ID upon taking consent from the concerned person. The Bill also provided that biometric data shall be required for new registration of Voter ID, any alteration or replacement request and every subsequent movement related to the person's Voter ID and shall be updated in the Electoral Roll in the main server. The Bill intends to stop multiple entries *via* use of biometric data. Let's put it this way. As linking Aadhaar ID with Voter ID could pose a threat to Privacy, the entire data minus biometric one shall be deleted within three hours of use. That biometric data once stored in main server shall come in handy when the person go for second entry in electoral roll as every new entry request requires biometric data submission. The main server would notify the Electoral Registration Officer if that person is already enrolled in Electoral roll, with the use of Biometric data. This way, Aadhaar number could be used to identify multiple entries and its deletion within three hours would put Privacy issues at bay. Use of Biometric data would pave way for establishing permanent unique identification of the person for life.

The menace of multiple or duplicate entries in the Electoral roll put democratic structure of the country at risk. Conducting free and fair election in the largest Democracy of the world is a task that requires reformed and novel practices which doesn't undermine citizens rights but strengthen them in the process.

Hence this Bill.

NEW DELHI;
November 21, 2022

SUPRIYA SULE

ANNEXURE

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

(ACT No. 43 OF 1950)

* * * *

23. * * * *

Inclusion
of names in
electoral rolls.

(5) Every person whose name is included in the electoral roll may intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette.

(6) No application for inclusion of name in the electoral roll shall be denied and no entries in the electoral roll shall be deleted for inability of an individual to furnish or intimate Aadhaar number due to such sufficient cause as may be prescribed:

Provided that such individual may be allowed to furnish such other alternate documents as may be prescribed:

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

* * * *

LOK SABHA

A

BILL

further to amend the Representation of the People Act, 1950

(Shrimati Supriya Sule, M.P.)