$~31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11234/2016

BIRENDER SANGWAN ..... Petitioner

Through: Petitioner in person with Mr.Joginder Sakhija, Mr.Vishal Chabra, Advs.

Versus

UOI AND ORS ..... Respondents

Through: Mr.Sanjay Jain, ASG with Mr.Gaurang Kanth, Ms.Biji Rajesh, Advs. for UOI/ R-1.
Mr.H.S.Parihar, Adv. for R-2/RBI.
Mr.Sanjoy Ghose, ASC with Mr.Rishabh Jetley, Ms.Pratishtha Vij, Adv. for GNCTD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

<u>O R D E R</u>

% **30.11.2016**

<u>Ms. G. ROHINI, CHIEF JUSTICE</u>:

1. This petition by way of public interest litigation has been filed with the following prayer:

> "It is, therefore, most humbly prayed that this Hon'ble Court may kindly be pleased to issue a writ of mandamus or other appropriate writ or direction or order thereby directing the Respondents:

(a) Respondent no.4 to receive old currency in regards to license fees/arrears of all chamber in Delhi or fine/cost/court fees and other relevant payment made in courts till 29th December 2016.

(b) to make some interim arrangements to fulfil the basic requirements of cash for person having marriage.

AND/OR

(c) to order the respondent no-1 to set aside arbitrary conditions laid in guidelines dated 21.11.2016.

AND/OR

(d) to order the respondent no-2 to allow the bonafide groom/bride or their family member to withdraw money from their accounts without such arbitrary conditions."

2. We have heard the learned counsel for the petitioner as well as Mr.Sanjay Jain, the learned ASG appearing for the respondent No.1.

3. The Government of India, Ministry of Finance vide Notification dated 08.11.2016 declared that the bank notes of denominations of the value of Rs.500 and Rs.1000 shall be ceased to be legal tender with effect from 09.11.2016 to the extent prescribed therein and certain restrictions on cash withdrawal from bank accounts have also been imposed. However, vide Circular dated 21.11.2016, cash withdrawals from the bank deposit accounts to certain limits for the purpose of celebration of weddings was allowed to

enable the members of public to perform/celebrate weddings of their wards. The said Circular dated 21.11.2016 reads as under:

> "2. With a view to enable members of the public to perform and celebrate weddings of their wards it has been decided to allow higher limits of cash withdrawals from their bank deposit accounts to meet wedding related expenses. Yet, banks should encourage families to incur wedding expenses through non-cash means viz., cheques/drafts, credit/debit cards, prepaid cards, mobile transfers, internet banking channels, NEFT/RTGS, etc. Therefore, members of the public should be advised, while granting cash withdrawals, to use cash to meet expenses which have to be met only through cash mode. Cash withdrawals shall be subject to the following conditions:
>
> i. A maximum of Rs.250000/- is allowed to be withdrawn from the bank deposit accounts till December 30, 2016 out of the balances at credit in the account as at close of business on November 08, 2016.
>
> ii. Withdrawals are permitted only from accounts which are fully KYC compliant.
>
> iii. The amounts can be withdrawn only if the date of marriage is on or before December 30, 2016.
>
> iv. Withdrawals can be made by either of the parents or the person getting married. (only one of them will be permitted to withdraw).
>
> v. Since the amount proposed to be withdrawn is meant to be used for cash disbursements, it has to be established that the persons for whom the

payment is proposed to be made to not have a bank account.

vi. The application for withdrawal shall be accompanied by following documents.

a. An application as per Annex.

b. Evidence of the wedding, including the invitation card, copies of receipts for advance payments already made, such as marriage hall booking, advance payments to caterers, etc.

c. A detailed list of persons to whom the cash withdrawn is proposed to be paid, together with a declaration from such persons that they do not have a bank account. The list should indicate the purpose for which the proposed payments are being made.

3. Banks shall keep a proper record of the evidence and produce them for verification by the authorities in case of need. The scheme will be reviewed based on authenticity/bona fide use thereof."

(*emphasis supplied*)

4. It is contended by the learned counsel for the petitioner that the condition imposed in the Circular dated 21.11.2016 that the application for withdrawal shall be accompanied by a list of persons to whom the cash withdrawn is proposed to be paid together with a declaration from such persons that they do not have a bank account, being impossible of compliance is arbitrary and illegal. It is further contended that the respondents should have also granted exemption for the purpose of payment of license fees to the Advocate's chambers in Delhi Courts as well as

payment of fine/costs/court fees and other similar payments made in terms of the order of the Court since the same would be received by the Government Treasury.

5. Per contra, it is submitted by the learned ASG that the purpose of the requirement of furnishing the details of the persons to whom the cash withdrawn is proposed to be paid is to ensure that the cash withdrawn is not used for any other purpose except to meet the expenses which have to be met only through cash mode.

6. Under the Notification dated 08.11.2016, it was decided by the Ministry of Finance, Department of Economic Affairs to declare that the specified bank notes be exchanged or deposited at any Issue Office of the Reserve Bank or any branch of public sector banks, private sector banks, foreign banks, Regional Rural Banks, Urban Cooperative Banks and State Cooperative Banks for a period up to and including the 30th December, 2016, subject to certain conditions/restrictions being imposed on the cash withdrawals over the counter and from Automatic Teller Machines (ATM). The notification itself shows that the said decision was taken having regard to the fact that fake currency notes of the existing series of the value of Rs 500 and Rs 1000 have been largely in circulation and it has been found difficult to easily identify genuine bank notes from the fake ones.

7. Admittedly, the petitioner has not assailed the Notification dated 8.11.2016, however, the grievance of the petitioner is only to the extent of condition imposed under paragraph 2(vi)(c) vide Circular dated 21.11.2016 with regard to the limits of cash withdrawal for the purpose of celebration of wedding.

8. It is relevant to note that on 22.11.2016, another Circular was issued modifying the instructions contained in paragraph 2(vi)(c) and the modified condition reads as under:

> "A detailed list of persons to whom the cash withdrawn is proposed to be paid, together with a declaration from such persons that they do not have a bank account, **where the amount proposed to be paid is ₹10,000/- or more.** The list should indicate the purpose for which the proposed payments are being made."
>
> *(emphasis supplied)*

9. Though the writ petition came to be filed on 24.11.2016, the petitioner appears to have overlooked the above modification vide Circular dated 22.11.2016.

10. In the light of the modified condition under Para 2(vi)(c) of the Circular dated 22.11.2016, we do not find any substance in the petitioner's contention that the restrictions imposed in Clause 2(vi) of the Circular dated 21.11.2016 are unwarranted and unjustified. The contention that the said condition is impossible of compliance is also untenable since there is no ban on circulation of the bank notes of the value of Rs.100 and less than that and particularly in view of the fact that the declaration is required only where the amount proposed to be paid is Rs 10,000 or more.

11. Be that as it may, restrictions on inflow of liquid cash might have resulted in some inconvenience to the public, however, having regard to the

fact that there is no restriction at all with regard to use of any non cash method of operating bank accounts of a person such as payment through cheques, demand drafts, credit or debit cards, mobile wallets and electronic fund transfer mechanisms or the like, we are of the view that the contentions raised by the petitioner are without substance.

12. The law is well settled that on matters affecting policy this Court will not interfere unless the policy is unconstitutional or contrary to statutory provisions or arbitrary or irrational or in abuse of power, since the policy decisions are taken based on expert knowledge and the Courts are normally not equipped to question the correctness of the same. The scope of judicial enquiry is therefore confined to the question whether the decision taken by the Government is against any statutory provision or it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution of India. [Vide: ***Parisons Agrotech (P) Ltd. v. Union of India*** **(2015) 9 SCC 657**, ***Manohar Lal Sharma v. Union of India*** **(2013) 6 SCC 616**, ***Union of India v. Dinesh Engg. Corpn.*** **(2001) 8 SCC 491**]

13. It is also a settled principle of law that the power of judicial review cannot be extended to determine the correctness of a policy decision or to find out whether there could be more appropriate or better alternatives. As held in ***BALCO Employees' Union Vs. Union of India*** **(2002) 2 SCC 333**, it is not within the domain of the Courts to embark upon an enquiry as to whether a particular public policy is wise or whether a better public policy can be evolved.

14. As rightly pointed out by the learned ASG the costs/fines imposed by the Court in judicial proceedings can also be complied with by net-banking

or by DD or any other electronic fund transfer mechanisms etc. Similarly, the rentals for the Lawyers' Chambers can also be tendered by way of cheque/DD or by net-banking. Hence, we do not find justification in any of the objections sought to be raised by the petitioner.

15. Hence, the interference by this Court is not warranted and the writ petition is accordingly dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

NOVEMBER 30, 2016
'pmc'