

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

207/2

CWP-13122-2017 (O&M).

Date of Decision: September 06, 2022.

Superintendent of Police (Vigilance) U.T. Chandigarh

...Petitioner

Versus

Union of India ad another

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Suman Jain, Addl. Standing Counsel and
Ms. Shubreet Kaur, Jr. Panel Counsel,
for the petitioner.

Mr. Satya Pal Jain, ASGI with
Mr. Dheeraj Jain, Sr. Counsel for Union of India.

Sh. Deepak Suri, Advocate,
for respondent No.2 – Reserve Bank of India.

VINOD S. BHARDWAJ. J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ of mandamus directing respondent Nos.1 and 2 to comply with the orders passed by the Courts at Chandigarh (Annexure P-4) (colly) and to deposit and exchange the old currency notes of the denomination of Rs.500/- and Rs.1,000/- that had been demonetized by producing the same before the Reserve Bank of India.

2. Briefly summarized, the grievance of the petitioner is regarding the case property seized during criminal cases and lying deposited in the malkhana. Such case property is in the form of

demonetized currency notes kept in treasury. The Chief Vigilance Officer directed the petitioner vide order dated 14.12.2016 to take up the issue of demonetized currency with the respective Court. The grace period as extended by the Reserve Bank of India came to an end. The Department had filed applications before Court in 47 different cases tabulated as Annexure P-3 for a sum of Rs.10,21,000/-. The said applications were allowed vide different orders passed for 08.02.2017 to 20.03.2017 and the Investigating Officers were permitted to get the notes exchanged.

3. However, when the officers approached the Reserve Bank of India, it refused to exchange the said notes and thus failed to comply with the orders passed by the Courts. A letter was sent that the Reserve Bank of India has no powers to accept the said notes. Hence, the present petition.

4. Learned counsel appearing on behalf of the petitioner refers to the response filed by the Reserve Bank of India. The relevant extract of the reply filed by respondent No.2 – Reserve Bank of India is extracted as under:-

“3. That the relief sought for by the petitioner Bank against RBI (Respondent No. 2) is a writ, order or direction in the nature of Mandamus directing the RBI to exchange the said demonetised currency notes deposited with the treasury/malkhana as case property, with acceptable legal tender currency notes of any denomination and to comply with the orders of the courts at Chandigarh. No other relief has been prayed for against RBI.

4. That at the outset, it is submitted that this reply affidavit is filed for the limited purpose of placing on record the position in law as regards the provisions of the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017 (hereinafter referred to as SBN Rules) issued by the Central Government on May 12, 2017 vide Gazette Notification G.S.R. 460(E) in exercise of the powers conferred by sub-section (1) of section 11, read with clause (c) of the proviso to Section 5, of the Specified Bank Notes (Cessation of Liabilities) Act, 2017 (2 of 2017) and the position of the Reserve Bank on the issue under determination. This respondent reserves right to file a further detailed reply on merits in case so found necessary at a future date. A copy of the SBN Rules is annexed and marked as ANNEXURE R-1 to this reply.

xxx xxx xxx

6. That in terms of the Specified Bank Notes (Deposit of Confiscated Notes) Rules 2017 notified by the Central Government on May 12, 2017, where SBNS have been confiscated or seized by a law enforcement agencies or produced before a court on or before the 30th day of December 2016, such SBNS may be tendered for deposit in a bank account or exchange of the value thereof with legal tender, subject to the following conditions, namely:

(a) in case confiscated SBNS are returned by the court to a person who is a party in case pending before that court, then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such SBNS, the serial numbers of which

(i) have been noted by the law enforcement agency which confiscated or produced them before the court; and

(ii) are mentioned in the direction of the court;

(b) in case SBNS are forfeited in favour of the Central Government or the State Government by an order of the

court, then, that Government shall be entitled, on production of the direction of the court, to deposit or exchange such SBNs;

(c) in case SBNs are placed in the custody of any other person by an order of the court on or before the 30th day of December, 2016, then, the person shall be entitled, on production of the direction of the court, to deposit or exchange such SBNs, the serial numbers of which

(i) have been noted by the law enforcement agency which confiscated or produced them before the court; and

(ii) are mentioned in the direction of the court.”

5. In view of above stand taken by the Reserve Bank of India that demonetised currency notes deposited with the treasury/malkhana as case property would be accepted, the prayer made by the petitioner stands answered.

6. Accordingly, the present writ petition is disposed of. The Reserve Bank of India – respondent No.2 shall remain bound by its stand taken in the written statement so filed and shall exchange the old demonetized currency notes within a period of 04 weeks of the petitioner approaching the Reserve Bank of India, subject to the petitioner fulfilling other conditions prescribed by the Reserve Bank of India.

September 06, 2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No