

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

207/3

CWP-21955-2017 (O&M).

Decided on: September 06, 2022.

Sandeep

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Dinesh Kumar Jangra, Advocate, for
Mr. Mohit Rathee, Advocate for the petitioner.

Mr. Jugansh Goyal, Advocate, for respondent No.5.

Sh. Deepak Suri, Advocate,
For respondent No.6 – Reserve Bank of India.

Mr. Satya Pal Jain, ASGI with
Mr. Dheeraj Jain, Sr. Counsel for Union 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.4 and 5 to get exchanged old currency notes of the denomination of Rs.500/- and Rs.1,000/- that had been demonetised and to exchange the same with the new currency.

2. The petitioner claims that on 26.05.2016, the petitioner was intercepted by two persons on motorcycle and cash amount of Rs.2,18,000/- was forcibly snatched from the petitioner. Resultantly, FIR No.114 dated 26.05.2016 was registered under Sections 379-B and 34 of

the Indian Penal Code at Police Station Naraingarh and accused were arrested during investigation. Recovery of Rs.2,00,000/- was effected from the accused. The aforesaid seized currency was lying with the malkhana and a detailed order was passed on 17.12.2016, whereby the Investigating Officer was directed to get the same exchanged and to get the same deposited in new currency. A letter was also sent by the Incharge of malkhana to the Manager of the State Bank of India who refused the same on 30.12.2016. The accused was convicted on 09.03.2017 whereupon the amount was ordered to be released to the petitioner. The said currency being in old currency is of no use unless exchanged in terms of the order. Thus, the present petition.

3. Learned counsel appearing on behalf of the respondents submit that they have no objection to the prayer being granted taking into consideration the judgment passed by a Division Bench of this Court in the matter of “**G. Tex Dyeing & Printing Mills Pvt. Limited Vs. State of Punjab and others,**” bearing CWP No.11984-2017 decided on **01.11.2017** as also the stand of the Reserve Bank of India in its reply.

4. The relevant extract of the aforesaid reply filed by respondent No.6 – Reserve Bank of India is extracted as under:-

“4. It is submitted that the answering respondent files this reply affidavit 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 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) (hereinafter referred to as SBN Act) and the position of the Reserve Bank on the issue under determination. This answering respondent reserves right to file a further detailed reply on merits in case so found necessary at a future date. A copy each of the Specified Bank Notes (Deposit of Confiscated Notes) Rules, 2017 and the Specified Bank Notes (Cessation of Liabilities) Act, 2017 (2 of 2017) are annexed and marked as Annexures R-I & R-2 respectively to this reply.

5. That in terms of Government of India's Gazette notification no. S.Q. 3407(E) dated November 08, 2016 on withdrawal of Legal Tender status of 500 and 1000 SBNs, the last date of depositing the SBNs was December 30, 2016.

Later, with the notification of the Specified Bank Notes (Cessation of Liabilities) Ordinance 2016 by the Government on December 30, 2016, the SBNs ceased to be the liabilities of the answering respondent and ceased to have the guarantee of the Central Government. The said Ordinance provided for a grace period during which the SBNs could be deposited by (a) Indian citizens who make a declaration that they were outside India between November 09, 2016 and December 30, 2016, subject to the conditions that may be specified by notification by the Central Government or (b) any class of persons and for such reasons as may be specified by notification, by Central Government. In terms of Government notification No. 4251 (E) dated December 30, 2016 the grace period for Indian citizens residing in India was till March 31, 2017 and that for those residing outside the country was till June 30, 2016. On February 27, 2017, the Specified Bank Notes (Cessation of Liabilities) Act 2017, (SBN Act. 2017) came

into force on similar lines which repealed the above said Ordinance. In terms of the provisions of the SBN Act, the SBNs can be exchanged only under certain situations mentioned in the said Act.

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8. In terms of Rule 2 of the SBN Rules, 2017, SBNs which were confiscated or seized by a law enforcement agencies or produced before a court on or before the 30th day of December 2016, may be tendered for deposit in a bank account or exchange of the value thereof with legal tender, subject to the following conditions enumerated in Rule 2 of the said Rule, 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; or

(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

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

5. In view of above, the present writ petition is disposed of directing respondent Nos.4 to 5 to seek exchange of demonetized currency notes in terms of order dated 17.12.2016 passed by the Additional Sessions Judge, Ambala within a period of 04 weeks from the Reserve Bank of India, upon compliance of the terms of the notification and to release the same to the petitioner in terms of the order dated 26.07.2017, passed by the Additional Sessions Judge, Ambala, subject to any other order to the contrary having been passed by a competent Court.

September 06, 2022
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(VINOD S. BHARDWAJ)
JUDGE

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