

Bimla Devi Vs. Union of India and Another

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Court : Delhi

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Reported in : [1985]58CompCas361(Delhi); 1983(4)DRJ236

Judge : B.N. Kirpal and; Prakash Narain, JJ.

Acts : High Denomination Banknotes (Demonetisation) Act, 1978 - Sections 3, 4, 7, 7(1), 7(2), 7(4), 7(5), 7(6), 7(7), 8 and 8(3); [Reserve Bank of India Act, 1934](#) - Sections 22, 26, 34, 39 and 39(2); [Negotiable Instruments Act, 1881](#); [Indian Coinage Act, 1906](#); [Constitution of India](#) - Article 31 and 31(1); [Land Acquisition Act, 1894](#) - Sections 4, 6, 9, 11, 16 and 31

Appeal No. : Civil Writ Petitions Nos. 1009 to 1012 of 1980 and 1141 and 1669 of 1979

Appellant : Bimla Devi

Respondent : Union of India and Another

Judgement :

B.N. Kirpal, J.

1. This judgment will dispose of Civil Writ Petitions Nos. 1009 to 1012 of 1980 and 1141 and 1669 of 1979 wherein the validity of some of the provisions of the High Denomination Banknotes (Demonetisation) Act, 1978 (hereinafter referred to as

'the Demonetisation Act'), has been challenged. The petitioners are aggrieved because they have not been paid the exchange value of the high denomination notes which were held by them and which had been demonetized.

2. Apart from challenging the validity of ss. 7 and 8 of the Demonetisation Act, the petitioners are also aggrieved by the orders passed under the Demonetisation Act, declining to pay them the exchange value of the demonetized notes held by them. The reasons for this refusal vary from case to case and the petitioners' contention in this regard will be dealt with separately.

3. As Parliament was not then in session, the President promulgated the High Denomination Banknotes (Demonetisation) Ordinance, 1978, which came into effect on January 16, 1978. It is not necessary to refer to the terms of this Ordinance because with the enactment of the Demonetisation Act, the Ordinance stands repealed. The Act, which received the assent of the President on March 30, 1978, was given retrospective effect from January 16, 1978. The high denomination notes which were sought to be demonetized by the Act were the bank notes of the value of one thousand rupees, five thousand rupees and ten thousand rupees which had been issued by the Reserve Bank of India. Section 3 of the Demonetisation Act provided that the high denomination banknotes shall cease to be legal tender. The said section reads as under :

'3. High denomination banknotes to cease to be legal tender. - On the expiry of the 16th day of January, 1978, all high denomination banknotes shall, notwithstanding anything contained in section 26 of the [Reserve Bank of India Act, 1934](#), cease to be a legal tender in payment or on account at any place.'

4. The prohibition of transfer and receipt of high denomination notes was provided by s. 4 which reads as follows :

'4. Prohibition of transfer and receipt of high denomination banknotes. - Save as provided by or under this Act, no person shall, after the 16th January, 1978, transfer to the possession of another person or receive into his possession from another person any high denomination banknote.'

5. Two more sections are relevant for our purpose, namely, ss. 7 and 8 of the Demonetisation Act. The relevant portions of the said sections, which provide for exchange of high denomination banknotes within and after the stipulated period, read as under :-

'7. Exchange of high denomination banknotes held by other persons. - (1) Notwithstanding anything to the contrary contained in the [Reserve Bank of India Act, 1934](#), any high denomination banknote owned by a person other than a bank or Government treasury may be exchanged after the 16th day of January, 1978, only on tender of the note -

(a) where the high denomination banknote is owned by an individual, by the individual himself; or where the individual is absent from India, by the individual concerned or some person duly authorised by him in this behalf; or where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

and within the time and in the manner provided in this section.

(2) Every person desiring to tender for exchange a high denomination banknote under this section shall prepare in the form set out in the Schedule three copies of a declaration signed by him giving in full the particulars required by that form and shall, not later than the 19th day of January, 1978, deliver such copies in person together with the high denomination banknotes he desires to exchange -

Provided that if such person resides in a place not within convenient reach of any such office or branch, or if, by reason of age, infirmity or illness he is unable to attend thereat, he may forward the high denomination banknotes he desires to exchange together with three copies of the declaration in respect thereof by insured post to the Reserve Bank at Bombay not later than the 19th day of January, 1978

(4) Unless it appears that the declaration has not been complete in all material particulars, the Reserve Bank, the State Bank or any bank notified under clause (c) of sub-section (2), as the case may be, to which an application for exchange of

high denomination banknotes is made under this section, shall pay the exchange value of the said notes for credit to a properly introduced account of the owner or the declarant, as the case may be, with any scheduled bank :

Provided that if the owner or declarant, as the case may be, does not have a bank account, the exchange value of the said notes shall be paid only on proper identification and until payment is so made, the amount shall remain in the custody of the Reserve Bank or the bank, as the case may be, to which the high denomination bank notes were tendered.

(5) Where it appears that the declaration has not been completed in all material particulars, the Reserve Bank, the State Bank or the notified bank, as the case may be, to which such application as aforesaid is made shall, unless the declarant is able to supply the omission without delay, refuse to accept and pay for the banknotes to which the declaration relates, and where it does so refuse, shall return one copy of the declaration to the declarant after entering therein the date on which it is presented and shall refer the matter to the Central Government to which it shall forward a copy of the declaration with a brief statement of the reasons for refusing to pay for the banknotes.

(6) The Central Government may require any declarant referred to in sub-section (5) to amplify his declaration to such extent and in respect of such particulars as it thinks fit and may, unless the declarant is able to fully comply with such requirement, refuse, for reasons to be recorded in writing, to sanction the exchange for the high denomination banknotes to which the declaration relates.

(7) The Central Government or any person or authority authorised by it in this behalf may, by order in writing and for reasons to be recorded therein, extend in any case or class of cases the period during which high denomination banknotes may be tendered for exchange under this section.

8. Exchange of notes after the time limit specified in section 7. - (1) Notwithstanding anything contained in section 7, any person who fails to apply for exchange of any high denomination banknotes within the time provided in that section may tender the notes together with the declaration required under that

section to the Reserve Bank at any of the places specified in clause (a) of sub-section (2) of that section, not later than the 24th day of January, 1978, together with a statement explaining the reasons for his failure to apply within the said time limit :

Provided that if such person resides in a place not within convenient reach of the sub-office, office or branch of the Reserve Bank at any of the said places or if, by reason of age, infirmity or illness, he is unable to attend thereat, he may forward the high denomination banknotes he desires to exchange together with three copies of the declaration required under section 7 by insured post to the Reserve Bank at Bombay not later than the 24th day of January, 1978, along with a statement explaining reasons for his failure to apply within the time specified in section 7.

(2) The Reserve Bank may, if satisfied after making such inquiries as it may consider necessary that the reasons for the failure to submit the notes for exchange within the time provided in section 7 are genuine, pay the value of the notes in the manner specified in sub-section (4) of that section.

(3) Any person aggrieved by the refusal of the Reserve Bank to pay the value of the notes under sub-section (2) may prefer an appeal to the Central Government within fourteen days of the communication of such refusal to him.'

6. According to the respondents, the effect of the aforesaid provision was that the high denomination notes ceased to be legal tender with effect from January 16, 1978, but the high denomination notes could be exchanged, within the period stipulated in ss. 7 and 8 of the Demonetisation Act, provided other conditions mentioned therein were satisfied.

7. The first contention raised by Shri Bobde was that, notwithstanding the provisions of the Demonetisation Act, the holders of the high denomination notes were entitled to obtain exchange value of those notes from the Reserve Bank of India. It was contended that the provisions of the [Reserve Bank of India Act, 1934](#) (hereinafter referred to as 'the RBI Act'), made it obligatory for the Reserve Bank to give the exchange value in respect of the banknotes which had been issued by

it notwithstanding the fact that the said notes may have ceased to be legal tender. It was submitted that, according to s. 3 of the Demonetisation Act, the high denomination notes were to cease to be a legal tender 'in payment or on account' at any place. According to Mr. Bobde, this and the other provisions of the Demonetisation Act, did not prohibit the RBI from discharging its statutory liabilities and obligations under the provisions of the RBI Act.

8. A banknote is not a bill of exchange under the [Negotiable Instruments Act, 1881](#). This being so, the promise to pay which is printed on the banknote can be enforced only if there is a statutory obligation on the Reserve Bank. The submission of Mr. Bobde was that this obligation is to be found in ss. 34 and 39 of the RBI Act. The said provisions read as under :

'34. (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and banknotes for the time being in circulation.

39. (1) The bank shall issue rupee coin on demand in exchange for banknotes and currency notes of the Government of India, and shall issue currency notes or banknotes on demand in exchange for coin which is legal tender under the [Indian Coinage Act, 1906](#).

(2) The bank shall, in exchange for currency notes or banknotes of two rupees or upwards, supply currency notes or banknotes of lower value or other coins which are legal tender under the [Indian Coinage Act, 1906](#), in such quantities as may, in the opinion of the Bank, be required for circulation; and the Central Government shall supply such coins to the Bank on demand. If the Central Government at any time fails to supply such coins, the Bank shall be released from its obligations to supply them to the public.'

9. The Reserve Bank issues banknotes under s. 22 of the RBI Act. Section 26, inter alia, provides that every such banknote 'shall be legal tender at any place in India in payment or on account for the amount expressed therein, and shall be guaranteed by the Central Government'. It was submitted by Mr. Bobde that the circulation of notes come to an end when there is a physical or legal destruction of

the banknotes and the said notes are back to the Bank.

10. We are unable to agree with the aforesaid submission. The effect of enacting s. 3 of the Demonetisation Act is that the said banknote ceases to be a legal tender. In other words, legal destruction of the notes takes place at that time. The provisions of s. 3 of the Demonetisation Act overrides the provisions of s. 26 of the RBI Act. The enactment of s. 3 would also mean that the said banknotes shall, in law, cease to be in circulation because there has been a legal destruction of the said banknotes and there is no warrant for contending that such notes would still be deemed to be in circulation till they come back to the Bank. Banknotes can be said to be in circulation if they can be circulated from one person to another or if they can be given as legal tender in payment or on account at any place. By virtue of s. 3, the high denomination notes ceased to be legal tender and with effect from January 16, 1968, they cannot be given by the holder in payment or on account at any place. Moreover, by s. 4, transfer of possession of the banknote is brought to an end. This being so the liability of the Issue Department contemplated by s. 34 of the RBI Act would also cease. The liability under the said section existed as long as the banknote were in circulation. When the circulation of the banknotes comes to an end on January 16, 1978, in the present case, then simultaneously the liability of the Issue Department also ceases.

11. Faced with this difficulty, Mr. Bobde sought to contend that under sub-s. (2) of s. 39 of the RBI Act, the Reserve Bank was obliged to supply different forms of currency in exchange of banknotes. It is true that notwithstanding the enactment of ss. 3 and 4 of the Demonetisation Act, a holder of high denomination banknotes could have insisted upon the Reserve Bank exchanging the said high denomination notes for other currency notes as provided by s. 39(2). This provision, however, unfortunately for the petitioners, stands overridden by s. 7 of the Demonetisation Act. The said section has been enacted 'notwithstanding anything to the contrary' contained in the RBI Act. Section 7 provides for the manner and the time in which the high denomination notes can be exchanged. The provisions of ss. 7 and 8 are clearly in conflict with and contrary to s. 39(2), and the effect of the same is that after January 16, 1978, no exchange can be effected under s. 39(2) and the high denomination notes could be exchanged only

in accordance with the provisions of ss. 7 and 8 of the Demonetisation Act.

12. It was faintly suggested by Mr. Bobde that, in any event, there was an implied obligation on the part of the bank to exchange the high denomination notes for other currency. Such a question had arisen before the Bombay High Court in the case of *J. M. D'Souza v. Reserve Bank of India* [1946] 16 Comp Case 113; AIR 1946 Bom 510. That case arose pursuant to demonetisation of certain high currency notes on the promulgation of Ordinance 3 of 1946. It was sought to be contended, in that case, that de hors s. 39, the holder had a right to receive payment in lieu of the high denomination notes. The Bombay High Court held that the mode of satisfying an obligation of the bank had been expressly provided for under s. 39 of the RBI Act and, therefore, it could not be assumed that the bank had any other implied obligation to pay. The Bombay High Court also held that this statutory method of discharge, contained in s. 39 of the RBI Act, had stood modified by the Demonetisation Ordinance and, as a result thereof, no owner or a holder of a high denomination note could claim its discharge from the bank except in the manner provided in the said Ordinance. We are in respectful agreement with the aforesaid decision of the Bombay High Court and we feel that, in view of the provisions of ss. 7 and 8 of the Demonetisation Act, the Reserve Bank of India cannot be asked to discharge any so-called obligation which might have arisen by virtue of the demonetized notes issued by it except in accordance with the provisions of the said ss. 7 and 8 of the Demonetisation Act.

13. It was then submitted on behalf of the petitioners that the effect of the Demonetisation Act is that a public debt has been wiped off and this amounts to acquisition. It is contended that the acquisition of the high denomination notes took place on January 24, 1978, and as no amount in respect of the said acquisition is payable under the Demonetisation Act, this court must hold that the Act, and ss. 7 and 8 in particular, are vocative of art. 31(1) of the Constitution, as it then stood. Elaborating this argument, it was submitted by Mr. Bobde that under ss. 7 and 8 of the Demonetisation Act, a holder of a high denomination note could get its exchange value till January 24, 1978. After January 24, 1978, there was no provision under which the exchange value could be obtained. The period within which the exchange value could be obtained by a holder is prescribed by ss. 7 and

8 of the Demonetisation Act. It is by reason of this provision within which the exchange can be effected, it was contended, that the acquisition takes place. It was further contended that in respect of the acquisition which takes place on January 24, 1978, after which date the high denomination notes cannot be exchanged, no amount is payable. This would be vocative of art. 31(1).

14. It has been held by the Supreme Court in *Madan Mohan Pathak v. Union of India*, : (1978)ILLJ406SC , that wiping out of a public debt amounts to acquisition. To this extent the submission of Mr. Bobde is correct. We, however, feel that the acquisition, namely, the wiping out of the public debt, took place only on January 16, 1978, and not on a later date. The reason for this is obvious. It is by virtue of s. 3 of the Demonetisation Act that the high denomination notes ceased to be legal tender with effect from January 16, 1978. It is with effect from that date that the purchasing power of those notes came to an end. Banknotes are money which can pass from hand to hand in discharge of debts and full payments of commodities purchased. This right of using the bank note as money came to an end, in so far as the high denomination notes are concerned, on January 16, 1978. Not only those notes ceased to be legal tender but the guarantee of the Government, as provided by s. 26 of the RBI Act, also ceased with effect from that date. The only conclusion which can be drawn there from is that the acquisition was effected on January 16, 1978, and the compensation or amount to be paid in respect thereof was provided by ss. 7 and 8 of the Demonetisation Act.

15. Even if it be assumed that the acquisition took place on January 24, 1978, as has been contended by Mr. Bobde, even then it cannot be said that no amount, as contemplated by art. 31 of the Constitution, as it then stood, has been provided for. It is not the requirement of art. 31 of the Constitution that compensation should be payable only after acquisition has taken place. All that art. 31 provided was that no acquisition shall take place without providing for an amount to be paid in respect thereof. Mr. Shanti Bhushan, the learned counsel for respondent No. 2, is right when he contends that there is nothing to prohibit the payment of compensation in advance in anticipation of the acquisition which may take place at a later date. Mr. Shanti Bhushan is correct in contending that in the present case the compensation for the acquisition, whether acquisition had taken place on the

16th or the 19th or the 24th January, 1978, has been provided by s. 7 of the Demonetisation Act. It is not unknown that Acquisition Acts may provide for payment of compensation even before Acquisition is completed. Reference may usefully be made, for the purposes of analogy, to the provisions of the [Land Acquisition Act, 1894](#). After notification under ss. 4 and 6 of the said Act has been issued declaring land to be acquired for public purposes, claims for compensation are invited by issuance of notices under s. 9 of the said Act. After enquiries, etc., are made, compensation is awarded by the Collector under s. 11 of the said Act. Section 31 of the Land Acquisition Act requires the Collector to tender payment of the compensation, on his making an award under s. 11, to the persons who are interested. The persons whose land has been acquired are thereupon entitled to receive the compensation. The property acquired, however, vests in the Collector not at the time of making of the award but when the Collector takes possession of the same under s. 16 of the said Act. The possession he may take long after the award has been made and the compensation collected by the owners. This clearly shows that in India, acquisition laws do provide for payment of compensation before the acquisition in fact takes place. As such, even if it be assumed that the acquisition takes place after January 24, 1978, an amount by way of compensation has been awarded under ss. 7 and 8 of the Demonetisation Act and, therefore, the petitioners' fundamental rights under art. 31 have not been violated.

16. It was, lastly, contended that, in the event of our holding that art. 31 has not been violated, the time fixed for the exchange of the high denomination notes is unreasonable and violative of the fundamental rights of the petitioners.

17. In order to judge as to whether the time fixed by ss. 7 and 8 of the Demonetisation Act is reasonable or not, it is necessary to see what was the object of the said enactment. The object is clearly specified in the preamble of the Act which reads as follows :

'Whereas the availability of high denomination banknotes facilitates the illicit transfer of money for financing transactions which are harmful to the national economy or which are for illegal purposes and it is, therefore, necessary in the

public interest to demonetise high denomination banknotes.'

18. The intention of the Legislature was to bring to an end, as speedily as possible, the circulation of the high denomination notes. With effect from the date the Ordinance was promulgated, the said notes ceased to be legal tender. Section 4 of the Demonetisation Act prohibited the transfer of possession of such notes from one person to another. In this context, it was but necessary to ensure that thereafter opportunity is not given to the holders of high denomination notes to transfer the same to the possession of others. At the same time, a reasonable opportunity had to be afforded nation notes. This opportunity of being able to exchange high denomination notes was to be afforded only to those persons who were the holders of the notes as on January 16, 1978. If no time limit had been provided during which such notes could have been exchanged, the Legislature must have thought that, somehow or the other, holders of the notes who were not in a position to exchange the same themselves, would try and transfer the said notes to other persons after January 16, 1978.

19. Under s. 7(2) of the Demonetisation Act, such exchange could take place not later than January 19, 1978. It is only the holder of the high denomination notes, or the persons mentioned in s. 7(1), who could exchange the said notes. After January 19, 1978, the said notes could be exchanged till January 24, 1978, under s. 8 of the Demonetisation Act, provided the tenderer was able to explain the reasons for his failure to apply for such exchange by January 19, 1978. The intention was very clear, namely, that a genuine holder of the high denomination notes should not ordinarily require a long time to be able to exchange the said notes. If, however, the time for such exchange was unlimited, then the said high denomination notes could continue to circulate and be transferred from one person to another, without the knowledge of the authorities concerned, and the very object which the Act sought to achieve would be defeated. The fact that transactions outside the books of account take place is well known. The preamble of the Act shows that it was with a view to bring such transactions to an end that the high denomination notes, which facilitated such transactions, were demonetized. If a person could go to the Reserve Bank at any time and ask for the exchange value of the high denomination notes by representing himself to be the holder thereof,

the very object of the enactment would have been frustrated. It will be difficult, if not impossible, for the Reserve Bank or the Government to prove that such a person was not an owner or holder of the high denomination notes as on January 16, 1978. Under these circumstances, we are of the opinion that the time-limit specified in s. 7(2) and s. 8 of the Demonetisation Act has to be regarded as reasonable and in the general interest of the public.

20. At this stage, we may also refer to the provisions of s. 7(7) of the Demonetisation Act. This sub-section permits the Central Government, for reasons to be recorded in writing, to extend in any case or class of cases the period during which high denomination banknotes may be tendered for exchange. The effect of this is that even after January 24, 1978, the Central Government may, even in individual cases, extend the period for tendering such high denomination notes for exchange. This provision was incorporated presumably to mitigate hardship to those persons who genuinely were not in a position to exchange their notes even till January 24, 1978. To give an example, it is conceivable that a holder of such high denomination note may have been hospitalised between January 16, 1978, and January 24, 1978. In such a case, if he is able to satisfy the Government that he was the genuine holder of the high denomination notes as on January 16, 1978, and that he was prevented from exchanging the same till January 24, 1978, then we are sure that the Government would take a realistic view and would extend the period for tendering the notes for exchange. In this view of the matter, it will really not be correct to say that the maximum period within which the high denomination notes may be exchanged was only up to January 24, 1978. Reading the provisions of ss. 7(2), 7(7) and s. 8 together, it appears to us that under s. 7(2), a holder of high denomination notes is entitled to exchange the same by January 19, 1978, without much difficulty, and after that date the holder has to explain to the Reserve Bank of India as to why he was not able to apply for exchange by January 19, 1978, and if such Explanationn was found to be correct or reasonable by the Reserve Bank, then such an exchange would be permitted up to January 24, 1978, under s. 8 of the Demonetisation Act. After January 24, 1978, the jurisdiction for extending the period within which the high denomination notes could be exchanged, ceases to be with the RBI. Thereafter, it is only the Central Government which can extend the period under sub-s. (7) of s. 7 of the

Demonetisation Act. We are, therefore, of the opinion that the provisions of ss. 7 and 8, which specify the time and the manner in which the high denomination notes can be exchanged, are not unreasonable and consequently are not vocative of the petitioner's fundamental rights.

21. We may now deal with the merits of each case separately.

C.W.P. No. 1012 of 1980 :

22. According to the petition, on the day when the Ordinance was promulgated on January 16, 1978, the petitioner was in Nepal where she was visiting her husband. According to the averments in the petition, she had 15 high denomination notes of the value of Rs. 1,000 each, claimed as held by her, but the same were, at that time, locked in Nagpur. It is alleged that she came to know about the Ordinance for the first time when she reached Calcutta on January 21, 1978, from Kathmandu. It is contended that she did not know about the Ordinance as there was no publicity given to in Nepal. Thereupon she claims to have rushed to Nagpur on January 22, 1978, and filed her declaration and tendered the notes to the RBI, Nagpur, on January 23, 1978.

23. The declaration was filed by her in the statutory form. In clause 16 of the form, which required her to disclose the source from which the banknotes came into possession, it was stated by her as follows :

'I got exchanged my smaller denomination currency notes from various private parties from time to time during the last one year.'

24. Clause 15, which required her to state the reasons for keeping such notes in her possession, was replied to by her as follows :

'For sake of convenience and safe custody'.

25. The aforesaid declaration was submitted along with a covering letter dated January 23, 1978. In the said covering letter, she had stated that she could not file the declaration earlier as she was in Kathmandu and returned to Nagpur only on January 22, 1978. It may be stated here that the declaration which was made by

the petitioner was somewhat similar to the declarations made by her son, Vinod Kumar (Petitioner in C.W.P. No. 1011 of 1980), her daughter-in-law, Smt. Sushma Vinod Kumar (Petitioner in C.W.P. No. 1009 of 1980), and her other son, Vineet Kumar (Petitioner in C.W.P. No. 1010 of 1980). Before the Reserve Bank authorities, the petitioner represented that she was an income-tax assessed and that she had been keeping the high denomination notes with herself for convenience and safe custody. In order to prove that she had undertaken the journey from Kathmandu to Nagpur, the petitioner produced a certificate dated April 19, 1979, from the office of the Indian Airlines, Calcutta, which certified that one Mrs. V. Saraf travelled from Calcutta to Nagpur on January 22, 1978. On an enquiry by the Reserve Bank authorities to furnish the names of the persons and the dates when the smaller denomination notes were exchanged into high denomination notes, the reply of the petitioner was that the Reserve Bank could only enquire into the genuineness and the reasons for the delay in the making the declaration but it could not go into the sources from such smaller denomination notes were exchanged. She further stated that she had not kept any record as to the names of the persons from whom the notes were exchanged. The petitioner also produced a certificate dated May 24, 1979, from M/s. Annapurna Travel & Tours (P.) Ltd., Kathmandu, certifying that one Mrs. B. D. Saraf had bought a Royal Nepal Airlines ticket on January 14, 1978, for flight on January 21, 1978, from Kathmandu to Calcutta.

26. By order dated November 20, 1979, the Currency Officer, Reserve Bank of India, Nagpur, rejected the said declaration. The reason for such rejection were as follows :

(a) The reason given by the petitioner for her failure to submit the high denomination notes by January 19, 1978, could not be considered to be genuine.

(b) The Ordinance was promulgated on the evening of January 16, 1978, and was given wide publicity over the radio that very night and again on January 17, 1978. One would have expected over to leave for Nagpur immediately if she had 15 high denomination notes.

The implication of this finding clearly is that the said officer did not accept the version of the petitioner that she did not know about the existence of the Ordinance prior to her reaching Calcutta on January 21, 1978.

(c) The petitioner had not given acceptable reason for keeping such large sums in cash, and has also not given reason as to why notes of smaller denomination were got converted into notes of higher denomination. Moreover, the source of the notes had not been revealed and, therefore, the declaration was liable to be rejected under sub-section (4) of section 7 of the Act.

27. Aggrieved by the said order, the petitioner filed an appeal under s. 8(3) of the Demonetisation Act, to the Central Government.

28. By order dated April 14, 1980, the said appeal was dismissed. The appellate authority noted that the main question which came up for consideration in the appeal was as to whether the petitioner had satisfactorily explained the delay in filing the declaration. While deciding against the petitioner, the appellate authority held as follows :

'The Ordinance had been given full publicity through the media of radio, press, etc., and, therefore, the Reserve Bank of India came to the conclusion that it was up to the appellant, Smt. Bimladevi V. Saraf, to have rushed to Nagpur earlier and have the notes which were stated to be in her custody declared within the specified time under section 7 of the Act. Besides, the Reserve Bank of India has also not been satisfied that the declaration is complete in all material particulars.

Keeping in view all the circumstances of the case, there are no reasons for the Government of India to disagree with the well-considered order of the Reserve Bank of India. The Government of India has, therefore, come to the conclusion that there is no force in the appeals and all the four appeals are accordingly rejected.'

29. It was contended by Mr. Bobde that the aforesaid findings of the authorities are incorrect. It was also submitted that the authorities had no jurisdiction to go into the sources of the notes and, in any case, if the Reserve Bank authorities did not

accept the declaration to be complete, then the only power which they had was to refer the matter to the Central Government under sub-s. (5) of s. 7. This not having been done, it was contended, the whole order stands vitiated.

30. We are unable to agree with these submissions. Dealing with the last contention first, we find that the currency officer having refused to accept the Explanation of the petitioner with regard to the delay in the filing of the declaration, there was really no occasion for him to have commented upon the merits of the declaration. Mr. Bobde is right when he submits that if the currency officer was not satisfied with the correctness of the declaration, then the only jurisdiction which he had was to refer the matter under sub-s. (5) of s. 7 of the Demonetisation Act to the Central Government. Though admittedly this has not been done, this would not, in our opinion, vitiate the order. If such a matter had been referred by the currency officer, then the petitioner would have had an opportunity of satisfying the Central Government with regard to the correctness of the declaration. In the present case, the petitioner has had such an opportunity, though in a different form. Whereas under sub-ss. (5) and (6) of s. 7 such an opportunity would have been afforded to the petitioner on a reference having been made by the currency officer, in the present case, the petitioner got this opportunity when she filed an appeal to the Central Government against the order of the currency officer. It cannot be said, therefore, that the petitioner was in any way prejudiced by the non-compliance of sub-ss. (5) and (6) of s. 7 by the currency officer. The petitioner has not in any way been prejudiced and, therefore, the impugned order cannot be struck down on this ground.

31. In our opinion, it is also not correct to state that the currency officer was going into the sources of the acquisition of the high denomination notes. It is true that it is not for the authorities under the Demonetisation Act to go into the sources from where the notes were acquired, but the authorities are entitled to know and to satisfy themselves as to whether the declarant was a person who held those notes on the date when the Ordinance was promulgated or whether those notes had come into his possession after January 16, 1978. If the declarant had acquired those notes after January 16, 1978 then such a declarant would not be entitled to exchange the same. It is only for this limited purpose that the respondents raised a

query as to from where the petitioner had obtained the high denomination notes. The implication is clear. If the petitioner was unable to satisfy the source from where those notes were acquired, then it would not be unreasonable to presume that the high denomination notes may well have been acquired after January 16, 1978. In the present case, besides 15 notes which were sought to be exchanged by the petitioner, her sons, Vinod Kumar and Vineet Kumar, declared 19 and 18 notes of Rs. 1,000 each and her daughter-in-law, Smt. Sushma Vinod Kumar, declared 28 notes of Rs. 1,000 each. Amongst the four of them, 80 notes were declared. None of them was able to give the name of a single person from whom these notes had been acquired. It is difficult to believe that neither the petitioner nor other members of her family would know the name of even a single person who had exchanged any of the notes. It may here be noted that in the other petitions, which will be dealt with separately, Vinod Kumar, Vineet Kumar and Smt. Sushma Vinod Kumar have also given a similar Explanationn that the high denomination notes were acquired by them by exchanging notes of lower denominations and that none of them knew the names of the persons from whom the notes were acquired. Each one of these declarants stated that such exchange had taken place during the one year prior to the making of the declaration. The non-disclosure of the information asked for could lead one to the conclusion that the said notes were probably acquired after January 16, 1978.

32. The authorities have also disbelieved the petitioner when she stated that she did not know about the promulgation of the Ordinance. The petitioner's sons and daughter-in-law have stated that they were not able to tender the currency notes earlier than January 23, 1978, because the same were in the custody of the petitioner who was away in Kathmandu. It is difficult to believe that no member of the family of the petitioner would have cared to communicate with the petitioner in Kathmandu and ask her to come to Nagpur immediately specially when the petitioner and her two sons and daughter-in-law were holding, amongst themselves, 80 high denomination notes of Rs. 1,000 each. The Ordinance was promulgated on January 16, 1978, and the time within which the said notes could be exchanged was very limited. Even if it be assumed that the news about the promulgation of the Ordinance was not known in Kathmandu, one would have expected the members of the family of the petitioner to have informed her about

the promulgation of such an Ordinance, and they would have insisted on her coming back to Nagpur in time so as to be able to file the declarations by January 19, 1978. The respondents were, therefore, right in coming to the conclusion that the Explanation of the petitioner under s. 8 of the Demonetisation Act for late filing of the declaration was not acceptable.

33. In any case, the finding of the authorities is a pure finding of fact. Nothing has been shown to us which would persuade us to come to the conclusion that the decision of the respondents is in any way perverse or one (sic) facts and circumstances were considered by the authorities concerned and nothing irrelevant has been taken into consideration. Under these circumstances, we are of the opinion that the appeal of the petitioner was rightly rejected.

C.W. Nos. 1009, 1010 and 1011 of 1980 :

34. Smt. Sushma Vinod Kumar, petitioner in C.W. No. 1009 of 1980, filed a declaration regarding 28 notes, Shri Vineet Kumar (petitioner in C.W. No. 1010 of 1980) filed a declaration regarding 18 notes of Rs. 1,000 each and Vinod Kumar (petitioner in C.W. No. 1011 of 1980) filed a declaration regarding 19 notes of Rs. 1,000 each. All these three declarations were filed along with the declaration of Smt. Bimla Devi on January 23, 1978. In each one of these declarations, the cause for not having filed the same earlier was the same, namely, that the notes were with Smt. Bimla Devi who was away in Kathmandu. The sources of acquisition of the notes, as given in the declarations, was also identical, namely, that the notes had been acquired during the last one year from different parties, whose names could not be disclosed, by getting them in exchange for notes of smaller denominations. The currency officer as well as the Central Government did not accept the declarations. In fact, the appeals of the four petitioners were disposed of by the Central Government by a common order dated April 14, 1980. The Explanation of Smt. Bimla Devi for the late filing of the declaration not having been accepted, the question of accepting the aforesaid Explanation of these petitioners does not arise. For the reasons given in connection with Civil Writ Petition No. 1012 of 1980, we are of the opinion that there is no infirmity in the order of the authorities.

C.W. No. 1141 of 1979 :

35. The petitioner is a close relative of Smt. Bimla Devi, Vinod Kumar, Vineet Kumar and Smt. Sushma Vinod Kumar, petitioners in the other writ petitions. On January 23, 1978, she also filed a declaration in the Reserve Bank of India along with 50 currency notes of Rs. 1,000 each. In the covering letter, she stated the following reasons. She stated that she was unable to make the declaration earlier because, after having got married on December 12, 1977, she had gone abroad with her husband on December 22, 1977. She is stated to have returned on January 4, 1978, and had directly gone to her in-laws' place at Patiala where she stayed till January 19, 1978. She further stated that she returned from Patiala to Nagpur on January 20, 1978 and as the currency notes were lying at Nagpur, in her father's residence, she could not make the declaration earlier. In the declaration she had also stated that she had kept the amount in cash in high denomination notes 'for sake of convenience and safe custody'. With regard to the source of procurement of the said banknotes, she had stated in the declaration that she had obtained them by exchanging smaller denomination currency notes 'from various private parties from time to time during the last one year.'

36. By letter dated August 30, 1978, the Currency Officer of the RBI asked the petitioner to furnish the following information :

(i) Information as to when and from what source you obtained possession of the high denomination notes furnished against item 16 of your declaration (extract enclosed) is not satisfactory. Specific information is, therefore, required by us in this regard.

(ii) Documentary evidence is required in support of your journey from Patiala to Nagpur mentioned in your Explanationn (copy enclosed) for delay in submission of your declaration.

(iii) Since you returned from Patiala on January 20, 1978, please let us know the reason as to why you could not submit the declaration on January 21, 1978.'

37. With regard to the first query, the petitioner in her reply dated September 16, 1978, stated that she had received cash on different dates commencing from August 30, 1977, from various parties and bank. According to her, as on January 1, 1978, she had accumulated cash balance of Rs. 85,700. She further stated that for the sake of convenience she had converted this cash balance into high denomination notes from different parties during the said period at Nagpur and Bombay through several staff members of her family concerns. She was unable to give the exact date and source from where possession of the high denomination notes were obtained. With regard to the second query, the petitioner stated that she travelled by car from Patiala to Delhi and then flew to Nagpur on January 20, 1978. A certificate dated September 8, 1978, issued by the Indian Airlines in support of her said journey from Delhi to Nagpur was enclosed. With regard to the third point, the petitioner stated that though she reached Nagpur on January 20, 1978, it took some time to prepare the papers and the same could be submitted only on January 23, 1978.

38. By order dated December 26, 1978, the currency officer rejected the declaration. The reasons stated in the said letter for rejecting the declaration were as follows :

'(i) You had reached Nagpur on January 20, 1978, but declared the notes only on January 23, 1978. The delay in presentation of the notes has not been explained to our satisfaction.

(ii) The information as to the source of the fund and when it was acquired are also mentioned in a vague way and you are not able to indicate the exact date and source of possession of the high denomination notes in question.'

39. An appeal was filed against the said order. By order dated June 4, 1979, of the Government of India, the said appeal was dismissed. Before the appellate authority, it had been contended, for the first time, that the petitioner could not leave Patiala earlier than January 20, 1978, for medical reasons. It was observed in the appellate order that this plea was an afterthought, as the same was never pleaded before the Reserve Bank of India or in the original appeal filed by the appellant. The Government of India accordingly agreed with the findings of the

Currency Officer, Reserve Bank of India, and held that the delay has not been satisfactorily explained and the reasons for the delay could not be considered to be really genuine. It was also observed that the sources of notes had not been explained to the satisfaction of the Reserve Bank and the Government of India saw no reason to interfere.

40. In our opinion also, the decision of the authorities is correct. Along with the declaration, the petitioner was required to give the reasons for the delay in the filing of the declaration. It was not mentioned in the letter accompanying the declaration as to why the petitioner could not file the declaration on or before January 19, 1978. Her Explanationn starts from January 20, 1978, when she is alleged to have left Patiala for Nagpur. Even in the memo of appeal originally filed, no Explanationn was given by the petitioner as to why she was unable to file the declaration by January 19, 1978. Section 8 of the Demonetisation Act requires the declarant to state the reasons as to why the declaration could not be filed within the stipulated period, namely, before January 19, 1978. No mention having been made at any earlier stage, the Central Government was justified in refusing to entertain the Explanationn which was offered for the first time in the appeal. The finding of the Central Government that the Explanationn now offered, namely, that for medical reasons, the petitioner was unable to travel from Patiala earlier than January 20, 1978, was an afterthought cannot be regarded as a perverse finding or conclusion. We see no reason to interfere with this finding of fact arrived at by the Central Government. With regard to the source of notes, as already explained earlier, the authorities were not really concerned with the source of the money which was acquired, but they were really concerned with the question as to whether the petitioner had acquired possession of the high denomination notes after or before January 16, 1978. It is for this reason that the query was raised by the authorities with regard to the source of the notes. It is indeed strange that the petitioner was unable to give the name of any one individual from whom she acquired even a single high denomination note, nor has she been able to give the exact date when any of the notes was acquired. It seems improbable that a person who has exchanged 50 high denomination notes of Rs. 1,000 each would not know these particulars. The authorities would be justified in forming the impression that in all probability the said notes were acquired by the petitioner after January

16, 1978. In any case the finding of the authorities concerned is a finding of the fact and we see no reason as to why the same should be interfered with.

C.W.P. No. 1669 of 1979 :

41. The petitioner filed a declaration in the Reserve Bank of India, Patna branch, Patna, on January 24, 1978, along with 60 notes of Rs. 1,000 each. In the letter dated January 23, 1978, the reason for not filing the declaration, prior to January 19, 1978, was stated in the following words :

'I have the honour to inform that some high denomination notes were kept under my custody for the establishment of my industry (Registered under S.S.I. No. 03 : 12 : 00831) at Ranchi and, as such, these notes are not submitted in the authorised State Bank of India at Ranchi in time due to sudden death of my nearest relative at Kurjee Hospital, Patna, and I was very much engaged in Kriya Karma as per our Hindu customs at Patna from 11-1-78 to 23-1-78.'

42. In the declaration, the reason for keeping the said amount in cash was stated to be for the establishment of factory and business. With regard to the source from where he obtained the banknotes, it was stated by the petitioner that they were obtained from sale proceeds of land and building, motor car, motor cycle and loan taken from friends and financing agencies. The petitioner also filed an affidavit giving the dates when he was away from Ranchi. The relevant portion of the affidavit is as follows :

'1. That I was away from Ranchi on tenth to twelfth day of January, 1978, and from the eighteenth day of January, 1978, to twenty-fifth day of January, 1978, I was at Patna.

2. That I had gone to Patna for the performance of Kriya Karma and Sharda of my late aunt, namely, Srimati Janki Samaiyar, wife of Shri B. P. Samaiyar at Patna, who died at the Hospital at Patna in the night of ninth of January, 1978.'

43. The petitioner was asked by the Reserve Bank to furnish information with regard to the parties to whom land and motor vehicles were sold as well as the dates of the transactions. Details of the loans alleged to have been taken from

friends and financing agencies were also asked for. The petitioner by his letter dated February 19, 1978, declined to give the requisite information. He stated that such questions were beyond the jurisdiction of the Reserve Bank. The petitioner apparently overlooked the fact that the Reserve Bank was entitled to satisfy itself as to whether he came into possession of the said notes prior to January 16, 1978, and was, therefore, entitled to ask for the said information from the petitioner.

44. By order dated January 23, 1979, the declaration was rejected by the currency officer. It was observed that, despite repeated opportunities having been granted to the petitioner, he had failed to furnish an attested copy of the death certificate in respect of the petitioner's late aunt, Smt. Janki Samaiyar. It was further held that even if it be assumed that the petitioner's aunt passed away on January 9, 1978, that was not a sufficient reason for the delay in submitting the notes for exchange as he could very well have tendered the notes for exchange either at Ranchi or at Patna by January 19, 1978. The distance between Ranchi and Patna is admittedly not very long. It was also held that the claim was liable to be rejected as full particulars had not been furnished in the declaration. The petitioner had not mentioned the source from where he got the notes nor had he furnished the said information even subsequently when asked to do so.

45. An appeal was filed against the said order. The Government of India, vide its order dated July 2, 1979, dismissed the said appeal. It was held that the petitioner was aware that the Ordinance demonetising the banknotes had been issued. Even if it was accepted that the petitioner was in Patna during the period, the notes could have been submitted. Government of India held that the distance between Patna and Ranchi 'is not so great that the appellant cannot make a trip and declare the notes either at Ranchi or Patna within the prescribed time while still attending to his obligatory duties in respect of his deceased aunt'. The Government of India also upheld the finding of the currency officer to the effect that the source of notes had not been explained.

46. In our opinion, conclusion of the authorities is unexceptionable. As already noted, the petitioner had filed an affidavit dated June 23, 1978. As per the said affidavit, the petitioner was admittedly in Ranchi on 16th and 17th January, 1978.

The Ordinance had been promulgated in the evening of January 16, 1978. It has not been stated by the petitioner that he did not know of the promulgation of the Ordinance on that or on the next day. The story of the petitioner is that the notes were in Ranchi. If that was so, then the petitioner has not been able to explain as to why the declaration was not made and the notes lodged with the Reserve Bank of India at Ranchi on January 17, 1978. Assuming that in the short time available, namely, one day, the declaration could not be prepared and filed in Ranchi, there is still no Explanation as to why the petitioner did not carry the notes with him to Patna where he could easily have filed the declaration. In any case, it is difficult to believe that the petitioner was so busy in Patna attending to the religious rites that he was unable to make a trip to Ranchi on or before January 19, 1978, for the purposes of making the requisite declaration. The petitioner was also not able to satisfy the authorities as to what was the source of the notes. The authorities were not obliged to accept the declaration if they were of the opinion that the petitioner had obtained the possession of the notes after January 16, 1978. It was in this context that it became necessary for the authorities to enquire as to when and from where the petitioner had obtained the said demonetized notes. On the facts on the record, we find no infirmity in the order of the respondents.

47. For the aforesaid reasons, the writ petitions are dismissed with costs. Counsel's fee Rs. 550 one set.

48. Petitions dismissed.