(2000) 09 PAT CK 0007

In the Patna High Court

Case No : C.W.J.C. No. 564 of 2000

Ajoy Kumar Verma APPELLANT

Vs

Union of India and Others RESPONDENT

Date of Decision : 21-09-2000

Acts Referred:

Constitution of India, 1950 — Article 21, 226, 9
Reserve Bank of India Act, 1934 — Section 7

Citation : (2000) 4 PLJR 660

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Advocate : Tara Kant Jha, Chiterve Bank of India, Chittaranjan Sinha I and Kaushal Kumar Jha M/s Basudev Prasad and Bank of India, Kaushlendra Kumar Sinha, V.N. Sinha and Satish Chandra Jha for State, Mr. Ajay Kumar Tripathy for Union of India, for the Respondent

Judgement

S.N. Jha, J.—This writ petition was initially filed against the Union of India through the Secretary, Ministry of Finance and the Reserve Bank of India through its Governor seeking a writ of mandamus or. any other appropriate writ, order or direction; to initiate disciplinary departmental proceeding against the then Chief General Manager, Reserve Bank of India Patna, Mr. Mahadev Jha and Chief Deputy General Manager, Reserve Bank of India, Mr. Dutta, who have failed to discharge their duties and thereby have helped circulation of counterfeit currency through the official channel of the Bank causing erosion in faith in the Indian Currency System and to issue consumer friendly policy of the Reserve Bank of India providing for issuance of certification of currency notes as and when produced by any willing consumer of banking services, and for consequential order/direction against the respondent no. 2. At this stage without giving the details, the background in which the case was filed may briefly be mentioned. The petitioner who is an officer of the Indian Police Service, withdrew Rs. 60,000/-from the Boring Road, Patna Branch of the State Bank of India (SBI) on 24.3.99. The money was delivered in currency notes of Rs. 500/- denomination on request. This consisted of 100 pieces in sealed pack and 20 loose pieces. When he went to deposit the amount in his Provident Fund account at Patliputra Colony Branch of the SBI he was told that 22 pieces in the pack were counterfeits. He returned to the Boring Road Branch, where he was offered exchange. According to the petitioner as such exchange would have been neither legal nor proper and as he also suspected foul play at the hands of the officials of the said Branch he refused to return the currency notes; instead he met local senior officials of the Reserve Bank of India (RBI) and the State Bank (SBI) and also entered into correspondence with the higher functionaries including the Governor, RBI and Chairman, SBI. Finally he came to this Court in the present writ petition on 17.1.2000. During the intervening period certain developments took place which I shall refer to later in this judgment.

2. When the case came up for preliminary hearing on 20.4.2000 a learned Judge of this Court taking a serious view of the matter directed the petitioner to file an affidavit disclosing the names of the officials of the SBI and RBI whom he had approached personally or with whom he had entered into correspondence and who had refused or failed to take action in the matter, with a view to impaled them as party respondents by name. The petitioner filed IA No. 2728/2000 stating the names of as many as 11 officials including the Chairman, SBI and the Governor, RBI. By order dated 1.5.2000 when the case came up for hearing next, they were added, by their names, as respondents 3 to 13. The Cashier of the Boring Road, Patna branch of the SBI was also added later as respondent no. 14 by name by order dated 8.5.2000 [reported in 2000 (3) PLJR 331].

3. Before stating the facts of the case it may be mentioned that the petitioner filed two more interlocutory applications. On 5.5.2000 he filed IA No. 2910/2000 seeking addition of the relief: for determination of admissibility and quantum of compensation, as claimed. On 24.5.2000 he filed IA No. 3507/2000 for issuance of direction to the Central Bureau of Investigation to take up investigation of the Budha Colony PS Case No. 104/99 from the CID Bihar and for issuance of a direction to RBI for taking away all Rs. 500 and Rs. 100 denomination currency notes out of circulation in phased manner and for making it mandatory to issue account payee cherub for getting any bank draft issued beyond a sum of Rs. 3000 in order to keep Indian Currency System free from menace of counterfeit circulation and for discouraging black economy. Besides the above said interlocutory applications the petitioner has filed as many as six supplementary affidavits besides reply affidavits to the counter affidavits filed by the different respondents.

4. It would thus appear that the case which was originally filed for a direction upon the original respondents to take disciplinary action against the ''erring'' officials, later assumed a different complexion. While espousing a public cause seeking appropriate direction to cleanse the Indian currency system, the petitioner also sought a relief for himself viz. compensation, making the litigation an adversary litigation. When this was pointed out to the petitioner, who argued

the case in person, he made no bones about it. He categorically stated that he was pursuing the case as adversary case. The case is thus now mix-up of three relief''s, broadly speaking, for (a) disciplinary action against the concerned officials of the Reserve Bank and State Bank, (b) eradication of the counterfeits from the Indian currency system, and (c) compensation.

5. There is little dispute between the parties, nor there can be any, regarding the first two issues-that guilty should be punished and the inflow/circulation of the counterfeit currency should be checked, though there is some difference in their perception. The real dispute is with respect to the third issue. According to the respondents the petitioner is not entitled to claim any compensation in this proceedings and as a matter of fact, the writ petition in that respect is not maintainable. I shall therefore, take up that issue first.

6. I shall first state the respondents'' objection and then the petitioner''s case as regards compensation. It was submitted on behalf of the respondents that before the writ petition was filed the petitioner had already received Rs. 90, 652/-more than his entitlement. On 17.12.99, he had received the Banker''s cheque for Rs. 51, 652/- inclusive of interest @ 4.5 per cent (admissible to savings account) for the period 24.3.99 to 16.12.99, and the said amount was credited to the petitioners account vide his pay-in-slip dated 18.12.99. On 12.1.2000 seventy eight pieces of genuine currency notes of Rs. 500 denomination from the pack in question, after taking out the twenty-two pieces of counterfeit notes, were delivered to him pursuant to the order of the CJM Patna dated 4.1.2000. It was pointed out that in the writ petition, filed on 17.1.2000, the said payment/receipt were suppressed by the petitioner with ulterior motive to claim compensation. The prayer originally made in the writ petition seeking disciplinary action against the of facials of the two Banks was a mere camouflage, the real object was compensation. In this connection reference was made to letters dated 24.12.99 and 12.1.2000 by the petitioner to the Chair man of the State Bank. It was submitted that from the affidavit of the Chief Manager, Boring Road Patna Branch, to would appear that on 27.3.99 he had re quested the petitioner to tender the counterfeit notes so that it could be impounded by the Bank as per the rules and thereafter sent for verification and for low up steps such as lodging of FIR, in case the same was found to be counter feits. The Chief Manager also told the petitioner that on tender of the currency notes, the money equal to the value of the tendered amount shall be immediately paid to him and he shall not be made to suffer any loss even for a moment. if para 19 of his reply affidavit the petitioner did not deny these statements of the Chief Manager. It was thus contended that as the Bank never refused to accept the counterfeit currency notes and give the genuine ones in exchange, the claim for compensation cannot be said to be bona fide. The petitioner in fact wants to denigrate the image of the Bank for some ulterior purpose. It was pointed out that in his aforesaid letter dated 12.1.2000 to the Chairman, SBI, the petitioner stated to have been approached by "a foreign origin private Bank" whose identity, curiously, he has withheld. As a matter of fact, a request was made to this Court to direct the

investigating agency in seizing of the criminal case relating to the counterfeit currency notes in question to interrogate the petitioner on this point. On the strength of decision of the Apex Court in S.A. Kini and Another Vs. Union of India (UOI) and Others, , it was submitted that the writ petition apparently filed with a design to denigrate the management of the Bank, is fit to be dismissed. Relying on another decision of the Apex Court in AIR 1991 420 (SC) , it was urged that the writ petition seemingly filed in public interest is fit to be dismissed if the petitioner is found to have personal interest in the subject-matter of the case. The petitioner being interested in compensation, his apparent concern for the Indian Banking System and eradication of the counterfeits is an eye wash.

7. The petitioner submitted that he had filed the case for direction to the respondents to take action against the concerned officers of the two Banks and it was pursuant to orders of this Court that the officers were made party and claim for compensation was made. He referred to the orders dated 20.4.2000 and 8.5.2000 and contended that by virtue of later order dated 8.5.2000 the compensation matter has to be decided in the present proceeding, and it is not open to this Court to refuse to consider the admissibility and quantum of compensation. On merit he submitted that the facts of the case show complete abdication of the essential duties and functions on the part of the functionaries of the two Banks verging on criminal conspiracy with the circulators of the counterfeit currency in the country. As the Banks cannot be awarded imprisonment for indulging in a criminal activity they must be saddled with compensation. Non- imposition of punitive compensation would amount to giving judicial sanction to the circulation of the counterfeits through the channel of the Banks. Reliance was placed on The Chairman, Railway Board and Others Vs. Mrs. Chandrima Das and Others, . The petitioner further submitted that he had no other forum available where he could make any grievance. Regarding the respondents'' case about the petitioners could take his grievance to the Ombudsman it was submitted that after criminal case is instituted the Ombudsman cannot play any role. On facts the petitioner contended that the offer of exchange by the Chief Manager of the Boring Road Branch was a mere ploy to cover the misdeeds. The petitioner having come in possession of the counterfeit currency, he could not have returned them to the very same Bank which had issued them because even if the petitioner would have got the genuine currency notes in exchange, the counterfeit currency would have remained in possession of the guilty officials which they could have used again and this would also have been against the provisions of the Code of Criminal Procedure. Suspecting foul play at the hands of the officers of the Branch, he tried to contact the higher officials of the two Banks but nothing was done. They did not even grant audience to him. Nothing was done even at the level of Governor, RBI/Chairman, SBI. Sec. 39 Cr.P.C. applies to all and for their failure to act they are liable. He remained in possession of the counterfeit currency. It caused him not only mental agony but there was also lurking risk of criminal prosecution. Being in possession of counterfeits is a criminal offence for which

even criminal case could have been instituted against him. Elaborating his case of collusion and foul play, the petitioner referred to grant of loan to a businessman of Raxaul by name P.K. Mittal, on security of some land at Raxaul valued @ Rs. 70 lacs per katha which is not the price of land in even prime cities. It was strange that though the loan was sanctioned by the Boring Road Patna Branch to a businessman of Raxaul against security of land situate there. It was stated that it is not in dispute that the counterfeit currency notes in question, had found its way to the Boring Road Patna Branch from said P.K. Mitlal. The petitioner was at pains to point out that having regard to the size of the Indian Population, its economy and the market, without the collusion and tacit support of the Banks there cannot be large scale inflow/circulation of the counterfeit currency to the extent of impairing the economy and its market.

8. It is correct, as submitted by the petitioner and already mentioned at the outset, that the writ petition was filed seeking direction to take disciplinary action against the concerned officials of the two Banks. But it is not correct to say that the claim for compensation was made pursuant to the orders of this Court. Before referring to the orders of this Court it would be useful to refer to the correspondence which the petitioner made to the Chairman of the State Bank. In his letter dated 24.12.99 Annexure-19 to the first supplementary affidavit, the petitioner wrote to the Chairman-

I don''t know how to thank you adequately for your kind help. Your thoughtfulness knows no bounds and you have indeed fulfilled my quest studying your style. When I was gets a little restless due to non-respondent from your side on my letter date 29.10.99. I suddenly received banker''s cheque for Rs. 51652/ from the SBI, without any associated for medications. I gather there from that this (sic) first installment of the compensate amount, which has so far not been. quantified by me, payable by the RB had not quantified the compensate amount, with a wrongful notion that it top management of the SBI is not empowered to decide regarding Payme; of compensation Please accept my heartfelt than for having made life a little bit east at a time when I am going without salary for almost 19 months and a forced to obtain money @ 4%, compounded monthly in advance, to key,the hearth warm Along with the aforesaid letter of petitioner enclosed "details of quantum compensation claimed" with a request-ion decide the quantum. He also request that response may be made so that the ambiguity regarding understanding each others position is totally remover He wrote thus,

You are entitled to accept cowan less thanks for giving an opportunity it studying your style of decision making being absolutely firm in administration but extremely soft with even an adversary. You give a behaviors dentition your post, and which anybody will lick to get, when placed at the receiver end. My respect for you has increase to such a level that it may be nova termed reverence''. With people like you at the helm, SBI is safe You will get entitled to get count less thanks, for ending the preset, period of nightmare for my family this period nothing seems to be going right for us. No salary for a very long time, money gets locked unnecessarily, banks dishes away counterfeit notes, money remains locked despite complaining before the CGM and the Chairman, opportunity of a lifetime to get ownership of property comes and slips by, for want of a meagre sum of Rs. 50,000/- a lot of running around and graying of hair in arranging loans, despite preparedness to pay heavy stroke of your pen. You have indeed shown compassion in the past, please show it now and save me as well as the SBI, a lot of avoidable litigation as well as adverse publicity." The letter dated 12.1.2000 (supra) Annexure-21 to the supplementary affidavit, was more or less to the same effect. It was in that letter that while requesting the Chairman to take early decision in the matter of compensation, he mentioned about the foreign origin private Bank'' getting in touch with him "to take the details of the case". To quote the words "they were interested in getting the SBI, RBI humiliated and were prepared to enter into an agreement for making a very heavy payment for getting the favour aforesaid.

9. It is thus evident that the compensation was very much in the mind of the petitioner when he filed the present writ petition. The letters dated 24.12.99 and 12.1.2000 (supra) leave little room for doubt in this regard. It may be mentioned here that the writ petition was affidavit on 11.1.2000 and presented for the stamp report on the same day. It is thus not correct on the part of the petitioner to contend that he made the claim for compensation pursuant to the orders of this Court.

10. At this stage reference may be made to orders dated 20.4.2000 and 8.5.2000 [reported in Ajoy Kumar Verma Vs. Union of India (UOI) and Others,] relied upon by the petitioner. While by the former order the petitioner was directed to disclose the names of the concerned officials of the two Banks (so that they could be made parties) and nothing was said about the compensation, the latter order referred to compensation. It appears that the said order was passed in presence of the Home Commissioner amongst others and assurance was made on this behalf that the petitioner could file representation in the matter. In that connection the Court observed that it will be open to him i.e. the Home Commissioner to consider the question of reparation. It would be useful to quote the relevant part of the said order as under: In that view of the matter, as submitted by the Home Commissioner, the petitioner is hereby directed to submit a detailed representation with respect to the deposit and receipt of the money in lieu thereof by him, from different authorities, before the Home Commissioner, who shall dispose of the matter with a reasoned order. It will be open to him to consider the question of reparation, the harassment caused to the petitioner and the persistent efforts being made by him for a national cause. The petitioner is making a valiant attempt to expose this issue. Therefore, this Court is very mindful of the situation that he deserves the greatest protection of all concerned from any harassment, canard, or vilification."

In the facts and circumstances, I am inclined to think that though the writ petition was initially filed seeking altogether different kind of relief, making a grievance of public nature, the petitioner had all along in his mind the claim for compensation and this ultimately turned down to be the thrust of his case. As a matter of fact, as mentioned above, in response to a pointed query from the Court the petitioner in no uncertain terms stated that the writ petition was not in the nature of public interest litigation, it was an adversary litigation.

11. Adverting to the claim for compensation, leaving aside the petitioner''s case for a while as to why he did not return the counterfeit currency notes and accept genuine ones in exchange, which I shall deal with later in this judgment, the fact remains that the petitioner was offered the exchange on 27.3.99 itself. He cannot therefore make any grievance of being deprived of his money. In fact prior to the filing of the writ petition he received the money with interest at the rate admissible to savings account and an order had also been passed by the CJM Patna for return of the seventy-eight pieces of the genuine currency notes to the petitioner which he finally received on 12.1.2000. Thus before filing the writ petition he had received sum of Rs. 90,652 (51,652+ 39,000).

12. A doubt arose in course of hearing as to whether, in the event the petitioner is held not entitled to compensation, he can retain those seventy-eight pieces of genuine currency notes i.e. the amount of Rs. 39,000 which obviously resulted in his receiving more than the amount due to him. The petitioner took objection to the observations of this Court. He submitted that this claim for compensation was pending before the Home Commissioner. The point has been taken in the Notes of argument on the point of ''admissibility and quantum of compensation'' filed by him. In this regard, I would like to quote the relevant part of the letter dated 12.1.2000 (supra) which indicates the mind of the petitioner and his perception of the matter at that time. The letter runs as under: The new century has brought new inflow of money. The Court of the CJM Patna was pleased to release the genuine 78 pieces of Rs. 500 denomination notes, seized by the police. I have received Rs. 39,000; thereby on 12.1.2000 and the Principe amount that the SBI has to pay" mi now is Rs. 11,000 only and the pena interest on the Principal amount will "be due on Rs. 11,000 only with effect from 12.1.2000. The total claim sent for you kind consideration, through my letter dated 20.12.99 may please bet modified suitably From the above it would appeal that the petitioner considered himself entitle to only Rs, 11,000 besides penal interest on that amount with effect from 12.1.2000, but apparently this did not take, into account the payment of Rs. 51,652 already made to him by the SB or 17/18.12.1999. The petitioner as a customer was entitled to withdraw the monger; from the Bank and any loss suffered by him on account of acts or omissions of commissions by the Bank and/or.its officials had also to be made good The Bank apparently thought that payment or interest at the admissible rate of 4.5 percent would be sufficient to make good his loss. Whether this was correct or not may be a debatable question which I shall consider a little later, but having already received on 17.12.99 the money which he wanted to withdraw on 24.3.99, it is no understandable as to how he could clime custody of

seventy-eight genuine currency notes. These seventy-eight genuine cur rency notes was part of the pack which contained 22 counterfeits. The police had seized the entire pack of hundred current cy notes in connection with criminal case i.e. Budha Colony PS. case No. 104/99 The petitioner having already received the money from the Bank (question of sufficiency apart), he was not entitled to take custody of those seventy-eight pieces of genuine currency notes. It may be stated that the CJM passed order for return of the seventy-eight currency notes in favour of the petitioner on the application of the Investigating Officer filed on the same day i.e. 4.1.2000. Apparently the Investigating Officer was not aware of the fact that the Bank had already paid Rs. 51,652/- to the petitioner. In these premises, I have no doubt in my mind that the petitioner was/ is not entitled to retain the custody of the seventy-eight genuine currency notes returned to him pursuant to court''s order dated 4.1.2000 and he is liable to return the same i.e. value thereof i.e. Rs. 39,000 to the State Bank. He is directed to do so forthwith.

13. Now coming to the question as to whether payment of sum of Rs. 1,652 as interest for the period from 24.3.99 to 16.12.99 on the amount of Rs. 50,000 was sufficient, even according to the petitioner, as per his letter dated 12.1.2000 (supra): he was entitled to penal interest on the amount of Rs. 11,000 with effect from 12.1.2000. This was on the basis of his receipt of sum of Rs. 39,000, as specifically, mentioned in the letter (quoted above). Thus on his own case, if the petitioner had not received Rs. 51,652/- he would have been entitled to interest on the balance amount of Rs. 11,000, after receiving Rs. 39,000. It is therefore not understandable as to how and on what basis he could claim compensation. It is apparent that the petitioner has been compensated in terms of interest, if the Bank paid him the interest at the admissible rate, the action cannot be said to be arbitrary. Considering that the Chief Manager of the Bank offered to deliver the genuine currency notes only after three days and finally paid him the amount with interest at the admissible rate makes me think that the Bank performed its duty. If the petitioner had accepted the offer of exchange on 27.3.99, there was no question of his suffering any loss or harassment. In his written submissions on the point of compensation, the petitioner has not stated about his loss, his emphasis is on the fact that the acts of omissions and commissions constitute criminal offence under the Indian Penal Code for which no prison term could be awarded and therefore the court should award punitive compensation.

14. The submission overlooks the fact that in the event of the concerned Officers of the Bank being held guilty, they could be awarded imprisonment but that was possible only if the counterfeit currency would have been handed over for being impounded and follow up action. The petitioner says in para 19 of his affidavit in reply to the counter affidavit of respondent no. 4-Moreover, the petitioner could not have handed over the said pack with the said Branch which had sealed it and which was in a position to replace the fake pieces with the genuine ones and then re-seal before sending them for examination regarding genuineness.

Besides the said Branch has lost credibility by circulating counterfeit, how could have the petitioner relied on the said Branch and have returned the counterfeit notes back to them. In my opinion notwithstanding that the counterfeit currency notes were issued by the Boring Road Patna Branch and the possibility of (sic) some of the officers and employees of the Bank posted there not ruled out, there is no basis to make general allegation against all of them. The Reserve Bank has brought on record the laid down procedure as revised by letter no. NE.G. 32/08.04.01/97-98 dated 23.6.98 regarding impounding etc. of the counterfeit currency. Under para 83 thereof branches of all public sector Banks, Treasuries and Sub-treasuries are authorized to impound forged notes and forward them to the local police authority for investigation for filing FIR in Form CL. 47. The Boring Road Patna Branch of the State Bank was therefore fully competent to impound the currency notes.

15. As regards the allegation against the officers of the Patna office of the Reserve Bank in paragraph 20 of the counter affidavit it has been explained why the request of the petitioner for exchange of the entire packet including the counterfeit currency notes in his possession could not be accepted by the Reserve Bank. It has been stated that the Reserve Bank does not pay the exchange value of the counterfeit notes. If nay note received at the counter from any member of the public is found to be forged the same is impounded. No exchange value of such counterfeit is paid. The counterfeit note along with name, address and statement of the tendered and the circumstances under which the said counterfeit notes came into his possession are then forwarded to the local police for investigation and lodging FIR. As regards the petitioner''s request to issue certificate regarding his being in possession of counterfeit notes, it has been stated that it was explained to him that the Reserve Bank as a matter of policy, does not issue such certificate to the members of the public but only to the police/Court.

16. In the above premises, respondent''s counsel submitted that the conduct of the petitioner was not bona fide. It may not be necessary to go into the question of bona fide. May be, the petitioner bona fide thought that it would not be proper to handover the counterfeit currency to the same very Branch of the Bank which had issued them. But so far as the claim for compensation is con corned, as the State Bank never refused to pay the money equivalent to the value; of the counterfeit currency right from the very beginning, I do not think petitioner can be held entitled to compensation.

17. The reliance on orders of this Court dated 8.5.2000 is misplaced. It is true that the bar of res judicate applies as: between two stages of the same proceeding. In the present case however the petitioner was never held to be entitled to compensation. From the order quoted above, it is clear that on suggestion by the Home Commissioner the petitioner was permitted to make representation While permitting him to make representation the Court simply observed that it will be open to him (the Home Commissioner) "to consider the

question or reparation." The term ''reparation'' "mean'' making good the loss, repair or amends The State Bank was always willing already to pay the money and finally paid with interest.

18. The reliance on decision of The Chairman, Railway Board and Others Vs. Mrs. Chandrima Das and Others, is also misplaced. That was a case of rape by the employees of the Indian Railway in Yatri Niwas belonging to the Railways at Howrah Railway Station. The Supreme Court held that rape is an offence which is volatile of fundamental right of a pad son guaranteed under Article 21 of the Constitution, and where public functionaries are involved and the matte relates to violation of fundamental right:-or enforcement of public duties, the High Court can order compensation under Article 226 of the Constitution.

19. Hough I have held on merit that'' the petitioner is not entitled to compensate talon, in fairness to the respondents, I must notice the decisions cited by the counsel in support of the contention that the writ petition under Article 226 for compensation is not maintainable. In Burmah Construction Co. Vs. The State of Orissa and Others, , a Constitution Bench of the Court observed that the High Court normally does not entertain the petition under Article 226 of the Constitution to enforce the civil liability arising out of a breach of contract or a tort to pay any amount of money due to the claimant, and leaves it to the aggrieved party to agitate the question in a civil suit filed for that purpose. But an order for payment of money may sometimes be made in a petition under Article 226 against the State or against Officer of the State to enforce a statutory obligation. In Suganmal vs. State of Madhya Pradesh, AIR 1965 SC 1740, another Constitution Bench of the Court held that though the High Courts have power to pass any appropriate order in exercise of powers conferred on them under Article 226 of the Constitution, a petition solely praying for the issue of a writ of mandamus directing the State to refund the money alleged to have been illegally collected by the State as tax is not ordinarily maintainable for the simple reason that a claim for such a refund can always be made in a suit against the authority which had illegally collected the money as a tax, and in such a suit it is open to the State to raise all possible defences to the claim, defences which cannot in most cases, be appropriately raised and considered in the exercise of writ jurisdiction. Krishan Lal Gupta and Others Vs. Adhishashi Adhikari and Others, , was a case of cancellation of allotment. The High Court interfered with the cancellation order on the ground that the orders had been passed in the purported exercise of executive power. The Supreme Court held that the case involved disputed questions of fact which could not be determined in the proceeding under Article 226, civil suit would have been the right remedy where issues would have been laid threadbare, and accordingly, set aside the order of the High Court permitting the parties to file suits in the Civil Court. Reliance was also placed on M/s Mohan Meakin Breweries Ltd. vs. Union of India, AIR 1975 Del 248 (FB).

20. Coming to the issue regarding taking disciplinary action against the

concerned officials of the two Banks which was the original prayer made in the writ petition. I have grave doubt if this Court can direct the respondents to take any disciplinary action. In Goutam Sinha vs. The State of Bihar, 2000 (3) PLJR (SC) 143, the direction of the High Court [reported in Para 10 of 2000(3) PLJR 567 (Sarju Pd. Sinha vs. State of Bihar)] "to consider the desirability of placing Goutam Sinha under suspension during the pendency of the trial" was held to be usurping the function of the employer i.e. the Executive. It may be useful to quote the observations of the Supreme Court as under: We have not doubt that the learned Single Judge ought not to have made such a direction. It amounts to practically taking over the function of the employer in deciding as to the desirability of keeping a public servant under suspension or not.

21. In the present case some of the local Officers prima facie, do not appear to have show due concern in the matter, some others may be guilty of indiscretion. Their conduct may be criminal in content. Particularly, I do not feel satisfied regarding P.K. Mittal episode. The contentions of the petitioner in this regard appear to be well founded. The circumstances under which huge amount of loan was sanctioned by the Boring Road Patna Branch against security of landed property of Raxaul, having a comparatively insignificant value are not at all clear to me and the attempt of the State Bank''s counsel to defend the action was difficult to appreciate. But action has already been initiated in the matter and it may not be proper to give any direction. In course of hearing, this Court was informed that the concerned Cashier of the Boring Road Branch has been placed under suspension. Criminal case with respect to the issue of the counterfeit notes in question has also been instituted. It is expected that the role of the officers at large would be examined by the police and appropriate action would be taken in the matter. In these premises, 1 am not inclined to issue any formal direction to the respondents to take disciplinary action, as prayed for. But I do expect that the management would not fail to take suitable action apart from the action that may be taken against them by the investigating agency in connection with the criminal case.

22. Now coming to the issue of inflow/circulation of the counterfeit currency notes, at the end of the hearing of the case counsel for the Reserve Bank furnished papers in sealed envelope to this Court regarding the action which has been taken or is proposed to be taken by the Reserve Bank in the matter. The issue of inflow/circulation of the fake or counterfeit currency has very large dimensions and it is difficult to deal with the problem under writ jurisdiction of this Court. The problem is administrative and somewhat political which requires policy decisions. It has to be tackled at the national level. From the materials brought to the notice of this Court, it does appear that both the Reserve Bank and the Government of India are cognizant of problem.

23. From the Reserve Bank of India Act, 1934 under which the Reserve Bank has been established, it appears that the persons at the helm of affairs are highly qualified persons having professional and technical expertise in their fields.

Section 7 of the Act vests management in the Governor and Deputy Governors to be appointed by the Central Government which is empowered to issue such direction to it as it may consider necessary public interest, the power of general perintendence and superintendence (sic) affairs and officers of the Bank entrusted to the Central Board of Dross consisting of, besides the Government and the Deputy Governors, four Direct to be nominated from the four glovers Boards constituted under Article 9.(sic) other Directors and one Government official. The local Boards u/s (sic) consist of five members representing as far as possible, territorial and ecop(sic) interest and the interests of co-opera and indigenous Banks. The Reserve E(sic) being an expert Board consisting of highly qualified personnel, acting under the command of the Central Government, it is (sic) proper to fiddle with its functioning in wit jurisdiction. The existence of countermen think, is as old as the currency section itself and it may be a fond hope to think that counterfeits can be completely eradicated. I find substance in the argument the petitioner that having regard to the size of the Indian population and the market, without the tacit support from the Banks, inflow/ circulation of counterfeit (sic) -rency notes of high denomination is(sic) possible. But putting check on the by flow/circulation is an administrative proem. How this is to be done is not for the Court to decide. It is a matter which this to be left to the Executive to be done of course, if the facts had disclosed complete inaction or lack of awareness on the part of the respondents, this Court would have considered issuing suitable direction but that is not the case. Thus 1 do not feel inclined to go into this issue and issue any direction. I do hope that the promises held out by the Bank would be fulfilled and possible attempts would be made to eradicate the evils in the currency system as far as possible.

24. Before I conclude, I must express my unhappiness over the use of certain harsh and uncharitable words against the Governor of the Reserve Bank. I do not wish to mention them so as to make them part of this judgment. The petitioner being an IPS Officer should have shown restraint in the use of words. Taking strong exception counsel for the Reserve Bank rightly submitted that the petitioner cannot be allowed to denigrate the officials by taking shelter of Article 226 of the Constitution. Prayer was made to delete the words and to award cost against the petitioner. Having regard to the fact that the petitioner at one stage was undergoing mental agony on account of non-payment of salary which perhaps made him to write those words, I do not think, it would be proper exercise of discretion to award cost. I direct that the comments or derogatory remarks made in various paragraphs such as paragraphs 40, 49, 51, 52, 54, 58, 63 to 66, 70 to 72 and 75 of the petitioner''s reply to the counter affidavit of respondent no. 2 shall be ignored as not being part of the affidavit. In the result, this writ petition is disposed of but subject to the observations and directions made hereinabove. There will be no order as to costs.

