

(1985) 04 PAT CK 0030

In the Patna High Court

Case No : Civil Writ Jurn. Case No. 132 of 1980

Binod Kumar Tebriwal and Another

APPELLANT

Vs

Currency Officer, Reserve Bank of India and Another

RESPONDENT

Date of Decision : 11-04-1985

Acts Referred:

Constitution of India, 1950 — Article 226

High Denomination Bank Notes (Demonetisation) Act, 1978 — Section 7, 8

Citation : AIR 1986 Patna 55 : (1986) 34 BLJR 455 : (1986) 60 CompCas 61

Hon'ble Judges : S.S. Sandhawalia, C.J.; S. Ali Ahmad, J

Bench : Division Bench

Advocate : K.N. Jain Choudhary, S.N. Mishra and Sabita Gupta, for the Appellant; Aftab Alam, for the Respondent

Final Decision : Dismissed

Judgement

S. Ali Ahmad, J.—The prayer in this application is to quash the order dated 31-8-1970 passed by the Currency Officer of the Reserve Bank of India rejecting the petitioners' claim under Sections 7 and 8, High Denomination Bank Notes (Demonetisation) Act, 1978 (in short "the Act") -- vide Annexure-1, and the order dated 31-12-1979 passed in appeal by the Additional Secretary to the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) affirming the same and rejecting the appeal of the petitioners -- vide Annexure-2.

2. Shortly stated, the facts giving rise to this application are that the petitioners is a Firm which carries on wholesale business in foodgrains, etc. It is said that in course of business and trade, the petitioners send agents to different parts of the country. These agents carry substantial amount with them to make local purchases of commodities in which the petitioners carry on trade. It is said that as usual, the petitioners had sent their two representatives, namely, Rajendra Prasad with an advance of Rs.28,151/- on 11-1-1978 and a further sum of Rs. 23,000/- on 12-1-1978 to Pilibhit and Binod Kumar with an advance of Rs.

51051/- on 13-1-1978 to Bhopal. While the two representatives of the petitioners were away to Pilibhit and Bhopal, the President of India promulgated an Ordinance called the High Denomination Bank Notes (Demonetisation) Ordinance, 1978. Under Clause (2) of Section 7 of the Ordinance it was provided that persons having high denomination notes should file a declaration in the prescribed form and deliver in person the High denomination notes not later than 19th day of January, 1978 to the office of the Reserve Bank at the specified places or the Branches of the State Bank of India at the headquarters of any district or any other offices of public sector Bank notified in this behalf by the Reserve Bank. Section 8 of the Ordinance provided that if any person, who could not file the declaration and deposit the high denomination notes within the time granted by Section 7, then he could file the declaration in the prescribed form and the high denomination bank notes together with a statement explaining the reason for failure to apply within the time limit prescribed u/s 7. This, according to Section 8, could be done not later than 24th day of January, 1978. According to Sub-section (2) of Section 8, the Reserve Bank could make an enquiry as to whether there was a genuine reason for not filing the declaration and the high denomination bank notes within the time prescribed u/s 7 and in case it was of the view that there was a genuine reason then the Reserve Bank will pay the value of the notes in the manner specified in Sub-section (4) of that section. In case, however, the Reserve Bank was of the view that there was no genuine reason for not making the declaration and tendering the high denomination bank notes within the time granted by Section 7 then the person aggrieved by this order could prefer an appeal to the Central Government within 14 days from the communication of such order. The aforesaid Ordinance was replaced by the Act which received the assent of the President on 13-3-1978 and was enforced retrospectively with effect from 16-1-1978.

3. When the two representatives of the petitioners became aware of the Ordinance, they tried to contact the petitioners on phone from their respective places, but unfortunately telecommunication could not be established. They, therefore, wrote letters to the petitioners on 16th, 17th, 18th and 19th January, 1978. The petitioners could telephonically contact the two agents at different places and asked them to come back with the notes so that the same might be tendered with the declaration as required under the aforesaid provisions of law. It is said that these agents came to Begusarai, the place of business of the petitioners firm on 23-1-1978 and on 24-1-1978, the notes with necessary declaration u/s 8 of the Act were tendered. The petitioners say that although they had fully explained the reason as to why the tender could not be made within the time allowed u/s 7 of the Act, yet they gave further clarification in reply to the Bank letters dated 8th May, 1978, 4th October, 1978, 13th October, 1978 and 29th January, 1979. But, it is said, the Currency Officer without appreciating the fact in correct perspective held that the petitioners had failed to show that there was genuine reason in not filing the declaration and tendering the high denomination notes within the time allowed u/s 7 of the Act. The order,

therefore, that the notes should be retained in terms of Sub-rule (2), R. 4 of the Rules was bad. The petitioners, therefore, filed an appeal against the said order and placed the entire matter before the appellate authority. The appellate authority after considering the materials agreed with the Currency Officer and rejected the appeal -- Vide order as contained in Annexure-2.

4. Mr. Jain, as usual, in his persuasive manner tried to demonstrate that the Currency Officer as well as the appellate authority did not correctly appreciate the fact. According to him, the materials on record fully establish that the two agents of the petitioners were away with the high denomination currency notes to Pilibhit and Bhopal and that they returned on 23-1-1979. He says that those notes were tendered along with the declaration and explanation as required u/s 8 of the Act on the very next day. He, therefore, says that there were genuine reasons as to why the notes could not be tendered within the time allowed by Section 7 of the Act. Mr. Aftab Alam, Additional Standing Counsel, for the Union of India, on the other hand, contended that the Currency Officer as well as the appellate authority have concurrently found that there was no genuine reason for the petitioners in not tendering the notes and filing the declaration within the time prescribed by Section 7 of the Act. This, according to learned counsel, is a pure question of fact which cannot be interfered with in an application under Art. 226 of the Constitution. He also urged that Section 8 of the Act provides that the Reserve Bank had to be satisfied that there was a genuine reason which prevented the petitioners from filing the declaration and tendering the high denomination notes within the time provided u/s 7 of the Act. Mr. Alam further urged that the High Court could not substitute the finding recorded by the Reserve Bank on this count by its own satisfaction. He appears to be right. The High Court cannot, in exercise of powers under Art. 226 of the Constitution, direct the Reserve Bank to accept the explanation on the ground that it was satisfied with the explanation. Mr. Alam relying on the decision in the case of *Somi Horam Tongkhul Naga Vs. Union of India (UOI) and Others*, urged that it cannot lay down guideline for the purposes of arriving at its satisfaction in view of very complicated nature of function of the Reserve Bank of India. He says that the purpose of the Act is mainly to prevent the illicit transfer of money for financing transactions, harmful to the national economy. This, according to Mr. Alam, is necessary to bring about monetary stability in the country. He is right. If Courts start interfering in such matter then the national economy may go a stray and the repercussion may be far reaching. It is, therefore, in the larger interest that the Courts should be loath in interfering with the order passed u/s 7 or 8 of the Act.

5. For the reasons stated above, in my view, the application has no merit and it is accordingly dismissed but without costs.

S.S. Sandhawalia, C.J.

I agree.