

JYANTILAL RATANCHAND SHAH
v.
RESERVE BANK OF INDIA AND ORS

AUGUST 9, 1996

[KULDIP SINGH, M.M. PUNCHHI, N.P. SINGH, M.K.
MUKHERJEE AND S. SAGHIR AHMAD, JJ.]

High Denomination Bank Notes (Demonetisation) Act, 1978 : Ss. 3, 4, 7 and 8.

Constitutionality of—High denomination bank notes ceased to be legal tender after 16.1.1978—Reserve Bank of India thereby relieved from making payment—Held : in effect Act extinguished or wiped out public debt owing to holders of high denomination bank notes from State and consequently their 'property' was compulsorily acquired—But considering the evil the Act sought to remedy as set out in its Preamble, acquisition was for public purpose—Hence, not violative of Article 31(2)—After such compulsory acquisition of 'property', right of holders of high denomination bank notes thereto stood extinguished and became non est—Hence, not violative of Articles 19(1)(f) & (g)—Sections 7 & 8 of the Act laid down elaborate procedure to obtain value of high denomination bank notes—Hence, holders of such bank notes not entitled to get compensation for such compulsory acquisition—Constitution of India, 1950, Articles 19(f) & (g) and 31(2).

High Denomination Bank Notes—Time and manner of exchange of—Held : not unreasonable or unjust having regard to the purpose of the Act—High Denomination Bank Notes—Door to door sale of donation tickets for cash by Trust—Receipt of high denomination bank notes in the process—Amount received kept in hand—Names of donors not disclosed—No satisfactory reasons given—Collection of funds by relief society—Collection boxes not opened immediately after issue of High Denomination bank notes—No satisfactory explanation given—RBI and Central Government refused claim for exchange of such bank notes because claimants could not prove possession of such bank notes on or before 16.1.1978—Held : findings by RBI and Central Government were findings of fact—Their satisfaction based on such facts was just and reasonable and not perverse—Not liable to be interfered with by Supreme Court—Constitution of India, 1950, Article 32.

A *Administrative Law :*

Principles of Natural Justice—Audi alteram partem—High Denomination Bank Notes—Payment of value of exchange—Refusal by RBI and Central Government—Pre-decisional opportunity of hearing to explain reason for late submission of declaration forms—Not given to claimant—However, such opportunity given by appellate authority before dismissing claimant's appeal—Detailed reasons also given by appellate authority for such dismissal—Held : even assuming that such opportunity of personal hearing was imperative to comply with the rules of natural justice, the claimant could not raise any grievance on that score in view of post-decisional hearing and detailed reasons given by appellate authority.

D The petitioner was the Chairman of a relief society which ran a medical dispensary. The Executive Committee of the Society decided to construct a public charitable hospital. With that object in view the Executive Committee decided to collect funds through donations and for that purpose donation boxes were kept at S and B. As per the Managing Committee's resolution these boxes were opened from time to time in presence of the Chairman and Vice-Chairman of the Society and the amounts so collected were recorded in separate minute books.

E Immediately after the promulgation of the High Denomination Bank Notes (Demonetisation) Ordinance, 1978, on January 16, 1978 instructions were given to the office bearers of the Society both at B and S not to accept any deposit or to allow anyone to deposit any high denomination bank notes in the collection boxes after midnight of January 16, 1978. For that purpose that boxes at S and B were taken possession of by the Society to open the boxes.

G As regards the boxes at S they were opened on January 20, 1978 and found to contain Rs. 34,76,000 in high denomination bank notes. The above sum of money along with requisite declaration was deposited by the petitioner in the Bank on January 23, 1978 along with a letter explaining the delay for failure to deposit the same within the prescribed time.

H The petitioner-Society received an order of the Currency Officer of the Bank rejecting their claim for exchange of the high denomination bank notes received in S on the grounds that the Society had not explained satisfactorily its failure to open the collection boxes immediately after

issue of the Ordinance and that it had not been established to his satisfaction that the notes had reached the Society before demonetisation. Aggrieved by the above order the Society preferred an appeal under Section 8(3) of the High Denomination Bank Notes (Demonetisation) Act, 1978 to the Central Government. After giving a personal hearing to the Society the Central Government dismissed the appeal with a reasoned order.

The petitioners were the trustees of a Charity Trust which was registered as a public charitable Trust under the Bombay Public Trusts Act, 1950. The petitioner-Trust started a donation collection drive for their "Hospital Building & Equipment Fund" to be utilised for the proposed construction of hospital. The Trust also agreed to participate in that drive and accordingly undertook sale of donation tickets of the Foundation from door to door cash. The petitioner-Trust managed to sell tickets worth Rs. 1,57,050 out of which Rs. 1,53,000 were in 153 currency notes of Rs. 1,000 each. No record was kept of the various individuals to whom the donation tickets were actually sold considering the manner in which the transactions took place.

Consequent upon the promulgation of the High Denomination Bank Notes (Demonetisation) Ordinance on January 16, 1978 the Trust delivered a declaration in respect of the 153 currency notes of Rs. 1,000 each, which they had received by sale of tickets as also the notes on January 19, 1978 to the Bank. The said declaration gave complete particulars of the said currency notes and also specifically stated that the amount had been received by way of donations. The Trust also furnished a statement giving complete particulars of the tickets sold by it, and produced the counterfoils of the tickets for perusal. The Trust also stated in its declaration that the donations remained in cash pending utilisation of the same. However, the Bank rejected the Trust's claim for payment of the exchange value of the high denomination bank notes. The petitioner-Trust preferred an appeal to the Central Government which was rejected. Being aggrieved the petitioners preferred the present writ petitions challenging the constitutional validity of the Act and the legality of the orders passed thereunder.

On behalf of the petitioners it was contended that the Demonetisation Act violated Articles 19(1)(f) & (g) and 31 of the Constitution; that refusal of the respondents to exchange high denomination notes amounted

A to compulsory acquisition of property; that such an acquisition was not
 made for a public purpose; that they were deprived of their right to get
 compensation for such acquisition; that the time prescribed for exchange
 of high denomination notes was unreasonable and unjust; that no oppor-
 tunity of being heard was given to the petitioner; that no reasons for
 B keeping the amount in cash were given; that no obligation was cast upon
 them under the Demonetisation Act to disclose the names of the donors;
 and that they were not obliged to satisfy the respondents that the notes in
 question had been received before or after the promulgation of the
 Demonetisation Ordinance.

C Dismissing the petitions, this Court

HELD : 1.1. The direct effect of the High Denomination Bank Notes
 (Demonetisation) Act, 1978 is the wiping out of a public debt owing to the
 holders of the high denomination bank notes from the State. Therefore,
 the contention of the petitioners that their property was compulsorily
 D acquired has got to be accepted. It has to be seen whether such acquisition
 was for a public purpose for under Article 31(2) no property could be
 compulsorily acquired except for a public purpose. From the preamble to
 the Demonetisation Act it is manifest that the Act was passed to avoid the
 grave menace of unaccounted money which had resulted not only in
 E affecting seriously the economy of the country but had also deprived the
 State Exchequer of vast amounts of its revenue. Considering the evil the
 above Act sought to remedy it cannot be said that it was not enacted for a
 public purpose. The petitioners' other contention based on Article 19(1)(f)
 and (g) of the Constitution is wholly misconceived for after compulsory
 F acquisition of their property by the impugned Act the petitioners' right
 thereto stood extinguished and consequently the question of reasonable
 restriction to the exercise or enjoyment of a right, which became non est,
 could not arise. Equally untenable is the petitioners' contention that they
 were deprived of their right to get compensation for such acquisition, as
 Sections 7 & 8 of the Demonetisation Act lay down an elaborate procedure
 G to apply for and obtain an equal value of the high denomination bank notes
 in the manner prescribed thereunder. [454-E, 455-B-D]

M.M. Pathak v. Union of India, [1978] 2 SCC 50, relied on.

H 1.2. The contention that the time prescribed for exchange of the high
 denomination Bank notes under Sections 7 and 8 of the Demonetisation

Act, was unreasonable and violative of the petitioners' fundamental rights cannot be accepted considering Sections 7 and 8 in the context of the purpose the Demonetisation Act sought to achieve, namely, to stop circulation of high denomination bank notes as early as possible. Consequent upon the high denomination bank notes ceasing to be legal tender on the expiry of 16.1.1978 and in view of the prohibition in the transfer of possession of such notes from one person to another thereafter as envisaged under Section 4, it was absolutely necessary to ensure that no opportunity was available to the holders of high denomination bank notes to transfer the same to the possession of others. At the same time it was necessary to afford a reasonable opportunity to the holders of such notes to get the same exchanged. However, if the time for such exchange was not limited the high denomination bank notes could be circulated and transferred without the knowledge of the authorities concerned from one person to another and any such transferee could walk into the Bank on any day thereafter and demand exchange of his notes. In that case it would have been well nigh impossible for the Bank to prove that such a person was not the owner or holder of the notes on 16.1.1978. Needless to say in such an eventuality the very object which the Demonetisation Act sought to achieve would have been defeated. To strike a balance between these competing and desperate consideration, that Section 7(2) of the Demonetisation Act limited the time to exchange the notes till 19.1.1978. From a combined reading of Sections 7 and 8 it is evidently clear that on furnishing a declaration complete in all particulars in accordance with Section 7(2) by 19.1.1978, the holder was entitled to get the exchange value of his notes from the Bank without any let or hindrance; thereafter, till 24.1.1978, he was also entitled to such exchange from the Bank if he could satisfactorily explain the reasons for his inability to apply by 19.1.1978 and after that date the Central Government was empowered to extend the period of such exchange. Such being the scheme of the Act regarding exchange of high denomination bank notes it cannot be said that the time and the manner in which the high denomination bank notes could be exchanged were unreasonable, unjust and violative of the petitioners' fundamental rights. Hence the Demonetisation Act is a valid piece of legislation. [455-E-H; 456-A-F]

2. Assuming that an opportunity of personal hearing was imperative to comply with the rules of natural justice the petitioners cannot raise any grievance on that score for the Appellate Authority gave them such an

- A opportunity before dismissing their appeal. The Appellate Authority has also given detailed reasons for its inability to accept the explanation of the Society for not filing the declaration in time. Under the Demonetisation Act if a holder of high denomination bank notes had acquired those notes after 16.1.1978 he would not be entitled to exchange the same. If, therefore, the Reserve Bank and the Central Government obtained a satisfaction that the Society failed to prove that the high denomination bank notes for which value was claimed had reached its hands on or before, 16.1.1978 payment could legitimately be refused. The findings of the RBI/Central Government were of facts and nothing was brought to this Court's notice to indicate that the impugned orders were perverse. On the other hand, on the basis of the materials on record it must be held that the reasons which weighed with the authorities to refuse payment to the Society in exchange of their high denomination bank notes were cogent and convincing. [459-D-E, 460-C]

3. The reasons for keeping the amount in cash and the names of the donors are to be disclosed under Section 7(2) of the Demonetisation Act. Having regard to the provisions of Sections 3 and 4 of the Demonetisation Act the reasons for disclosure of such details are not far to seek. After the high denomination bank notes ceased to be valid tender on the expiry of 16.1.1978 transfer of the same to the possession of others thereafter was forbidden. That necessarily means, that the right and opportunity of exchanging those notes was available only to those persons who were possessing the same on 16.1.1978. Therefore, to obtain satisfaction that the declarant was in possession of the notes on or before 16.1.1978 the Bank was required to make necessary enquiry and in that context complete disclosure of the particulars were absolutely necessary. The particulars furnished by the Trust did not find favour with the concerned authorities for according to the authorities, as the Trust had a bank account and the cash was not required to be utilised in the near future it seemed very unusual that it would be kept in hand pending utilisation. As regards the failure of the Trust to disclose the name of the donors, the comment was that this was a vague reply and did not establish whether notes were received before or after the Ordinance. Besides, it was observed that since the amounts were collected from donors it did not stand to reason that all the donors would like to remain anonymous though they had donated for a good cause. The grounds so canvassed in refusing payment to the petitioners cannot be said to be unreasonable or unjust so as to entitle this Court to disturb the same. [462-F-H, 463-A-C]

ORIGINAL JURISDICTION : Writ Petition (C) No. 1188 of 1979 A
Etc.

(Under Article 32 of the Constitution of India.)

Krishan Mahajan and P.H. Parekh for the Petitioners.

H.N. Salve, Ms. A. Subhashini NP, K.S. Parihar and H.S. Parihar for
the Respondents. B

Dr. R.R. Mishra and Ms. Binu Tamta for the Respondent No. 3

The Judgment of the Court was delivered by C

M.K. MUKHERJEE, J. The constitutional validity of the High Denomination Bank Notes (Demonetisation) Act, 1978 (hereinafter referred to as the 'Demonetisation Act') and the legality of certain orders passed thereunder are under challenge in these petitions under Article 32 of the Constitution of India. The Act replaced an Ordinance, bearing a similar title, which was promulgated by the President and had come into force on January 16, 1978. To appreciate the contentions raised on behalf of the petitioners it will be necessary, at this stage to refer not only to the relevant provisions of the Demonetisation Act but also of the Reserve Bank of India Act, 1934 ('RBI Act' for short), which empowers Reserve Bank of India ('Bank' for short) to issue bank notes and imposes an obligation upon it to exchange those notes. D E

The Bank has been constituted under the RBI Act to regulate the issue of bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage. Section 22 of that Act provides that the Bank shall have the sole right to issue bank notes. Section 24, which prescribes the denomination of the notes, reads as under : F

"(1) Subject to the provisions of sub-section (2) bank notes shall be of the denominational values of two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees or of such other denominational values, not exceeding ten thousand rupees, as the Central Government may, on the recommendation of the Central Board, specify in this behalf. G H

- A (2) The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf."

- B Section 26 lays down that every bank note shall be legal tender at any place in India in payment or on account of the amount expressed therein and shall be guaranteed by the Central Government. It further lays down that on recommendation of the Central Board the Central Government may however by notification in the Gazette of India declare that with effect from such date as may be specified in the notification any series of
- C bank notes of any denomination shall cease to be legal tender except at such office or agency of the Bank and to such extent as may be specified in the notification. The other Section of the RBI Act relevant for our purposes is Section 39 which imposes on the Bank an express obligation to issue, rupee coin or notes of lower values on demand, in exchange for bank notes and currency notes of the Government of India.

- D On a conspectus of the above provisions of the RBI Act it is patently clear that the Bank is the sole note issuing authority and has the obligation to exchange those notes when demanded except when, and to the extent, it is relieved of that obligation by the Central Government.

- E Coming now to the Demonetisation Act we first find that 'high denomination bank note' has been defined in Section 2(d) to mean a bank note of the denominational value of one thousand rupees, five thousand rupees or ten thousand rupees issued by the Reserve Bank. Section 3 declares that on expiry of January 16, 1978 all high denomination bank
- F notes shall *notwithstanding anything contained in Section 26 of the Reserve Bank of India Act, 1934* (emphasis supplied) cease to be legal tender in payment or on account at any place. Section 4 which prohibits transfer and receipt of high denomination bank notes reads as follows :

- G "Save as provided by or under this Act, no person shall, after the 16th of January, 1978, transfer to the possession of another person or receive into his possession from another person any high denomination bank note."

- H Section 7 and 8 of the Demonetisation Act, around which a large part of the arguments of the petitioners revolves, reads as under :

"Section 7. Exchange of high denomination bank notes held by other persons : A

(1) Notwithstanding anything to the contrary contained in the Reserve Bank of India Act 1934 any high denomination bank note 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 - B

(a) where the high denomination bank note 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; C

(b) to (f) D

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

(2) Every person desiring to tender for exchange a high denomination bank note 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 bank notes he desires to exchange - E

(a) to (c) F

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 bank notes 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. G

(3) H

(4) Unless it appears that the declaration has not been complete H

- A in all material particulars, the Reserve Bank, the State Bank or any Bank notified under Cl. (c) of sub-section (2) as the case may be, to which an application for exchange of high denomination bank notes 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.
- B

- C 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.

- D (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 bank notes 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 bank notes.
- E

- F (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 section the exchange of the high denomination bank notes to which the declaration relates.
- G

- H (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 bank notes may be tendered for exchange under this section.

Section 8. - Exchange of notes after the time limit specified in S. 7.-- A

(1) Notwithstanding anything contained in S.7, any person who fails to apply for exchange of any high denomination bank notes 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, 1976 together with a statement explaining the reasons for his failure to apply within the said time limit : B

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 bank notes he desires to exchange together with three copies of the declaration required under S. 7 by insured post to the Reserve Bank at Bombay not later than the 24th day of January, 1978, along a statement explaining the reasons for his failure to apply within the time specified in Section 7. C D

(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 S. 7 are genuine, pay the value of the notes in the manner specified in sub-section (4) of that section. E

(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." F

In assailing the Demonetisation Act it was contended on behalf of the petitioners that it violated their fundamental rights enshrined in Articles 19(1)(f) and 31 of the Constitution (since repealed), which were available to them at the material time. In elaborating their contention it was submitted that Section 26 of the RBI Act cast an obligation upon the Bank to make payment of high denomination bank notes whenever tendered and the Central Government guaranteed such payment but on G H

- A promulgation of the impugned Act those notes ceased to be legal tender, notwithstanding the above provision of the RBI Act, in view of Section 3 thereof; and, resultantly, the Bank and for that matter the Central Government stood discharged of their such obligations. In other words, according to the petitioners, the impugned Act extinguished the debts due and owing from the Bank to the holders of the high denomination bank notes. The
- B petitioners contended that such extinguishment of debts amounted to compulsory acquisition of property within the meaning of Article 31(2) of the Constitution and since the acquisition was not made for a public purpose nor adequate and appropriate provisions were incorporated in the impugned Act for payment of compensation in respect thereof the im-
- C pugned Act was violative of the above Article. Besides, the petitioners contended, they had a right to acquire and hold the high denomination bank notes and to carry on any trade or business by using the same in the course thereof and the Demonetisation Act in so far as it provided for non-payment of exchange value of high denomination bank notes except in those cases mentioned in Section 7 and 8 thereof, it imposed unreasonable
- D restriction on their fundamental rights under Article 19(1)(f) and (g) of the Constitution.

- Since it cannot be disputed that the direct effect of the High Denomination Bank Notes (Demonetisation) Ordinance, 1978 is the wiping
- E out of a public debt owing to the holders of the high denomination bank notes from the State, the other contention of the petitioners that their 'property' was compulsorily acquired has got to be accepted in view of the Constitution Bench judgment of this Court in *M.M. Pathak v. Union of India*, [1978] 2 SCC 50, wherein it has been held that 'property' within the
- F meaning of Article 19(1)(f) and clause (2) of Article 31 comprises every form of property, tangible or intangible including debts and choses in action and that extinguishment of a public debt due and owing from the State amounts to compulsory acquisition of such 'debt'.

- The next question that necessarily falls for determination is whether
- G such acquisition was for a public purpose for under Article 31(2) no property could be compulsorily acquired except for a public purpose. To answer this question we may profitably look to the preamble of the Demonetisation Act which reads as follows :

- H "Whereas the availability of high denomination bank notes

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 bank notes." A

From the above preamble it is manifest that the Act was passed to avoid the grave menace of unaccounted money which had resulted not only in affecting seriously the economy of the country but had also deprived the State Exchequer of vast amounts of its revenue. Considering the evil the above Act sought to remedy it cannot be said that it was not enacted for a public purpose. The petitioners other contention based on 19(1)(f) and (g) of the Constitution is wholly misconceived for after compulsory acquisition of their property by the impugned Act the petitioners right thereto stood extinguished and consequently the question of reasonable restriction to the exercise or enjoyment of a right, which became non est, could not arise. Equally untenable is the petitioners contention that they were deprived of their right to get compensation for such acquisition, as Sections 7 & 8 of the Demonetisation Act lay down an elaborate procedure to apply for and obtain an equal value of the high denomination bank notes in the manner prescribed thereunder. B C D

It was, however, contended on behalf of petitioners that even if it was assumed that Article 31 had not been violated the time prescribed for exchange of the high denomination bank notes under Sections 7 and 8 of the Demonetisation Act was unreasonable and violative of their fundamental rights. When the above provisions of the Act are considered in the context of the purpose the Demonetisation Act sought to achieve, namely, to stop circulation of high denomination bank notes as early as possible, the above contention of the petitioners cannot be accepted. Consequent upon the high denomination bank notes ceasing to be legal tender on the expiry of January 16, 1978 and in view of the prohibition in the transfer of possession of such notes from one person to another thereafter as envisaged under Section 4, it was absolutely necessary to ensure that no opportunity was available to the holders of high denomination bank notes to transfer the same to the possession of others. At the same time it was necessary to afford a reasonable opportunity to the holders of such notes to get same exchanged. However, if the time for such exchange was not limited the high denomination bank notes could be circulated and transferred without the knowledge of the authorities concerned from one person to another and any such transferee could walk into the Bank on any day E F G H

- A thereafter and demand exchange of his notes. In that case it would have been well nigh impossible for the Bank to prove that such a person was note the owner or holder of the notes on January 16, 1978. Needless to say in such an eventuality the very object which the Demonetisation Act sought to achieve would have been defeated. Obviously, to strike a balance between these competing and disparate considerations that Section 7(2) of the Demonetisation Act limited the time to exchange the notes till January 19, 1978. However, even thereafter, in view of Section 8, the high denomination bank notes could be exchanged from the Bank till January 24, 1978 provided the tenderer was able to explain the reasons for his failure to apply for such exchange within the time stipulated under Section 7(2) of the Demonetisation Act. Apart from the above provisions regarding exchange of high denomination bank notes by the Bank within the time stipulated therein, provision has been made in sub-section (7) of Section 7, permitting 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 bank notes may be tendered for exchange. From a combined reading of Section 7 and 8 it is evidently clear that on furnishing a declaration complete in all particulars in accordance with sub-section (2) of Section 7 by January 19, 1978, the holder was entitled to get the exchange value of his notes from the Bank without any let or hindrance; thereafter, till January 24, 1978, he was also entitled to such exchange from the Bank if he could satisfactorily explain the reasons for his inability to apply by January 19, 1978 and after that date that Central Government was empowered to extend the period of such exchange. Such being the scheme of the Act regarding exchange of high denomination bank notes it cannot be said that the time and the manner in which the high denomination bank notes could be exchanged were unreasonable, unjust and violative of the petitioners fundamental rights.

Now that we have found the Demonetisation Act to be a valid piece of legislation, we may proceed to consider whether the orders passed by the respondents, in exercise of their powers thereunder, refusing to exchange the high denomination bank notes of the respective petitioners of the writ petitions are justified or not.

WRIT PETITION NO. 1188 OF 1979

- H The petitioner is the Chairman of the relief Society which runs a

medical dispensary at Surat. In the year 1974 the Executive Committee of the Society decided to construct a public charitable hospital. With that object in view the Executive Committee decided to collect funds through donations and for that purpose donation boxes were kept at Surat and Bombay. As per the Managing Committee's resolution dated August 4, 1974 these boxes were opened from time to time in presence of the Chairman and Vice- Chairman of the Society and the amounts so collected were recorded in separate minute books.

According to the petitioner, immediately after the promulgation of the High Denomination Bank Notes (Demonetisation) Ordinance, 1978, on January 16, 1978 instructions were given to the office bearers of the Society both at Bombay and Surat not to accept any deposit or to allow anyone to deposit any high denomination bank notes in the collection boxes after midnight of January 16, 1978. For that purpose the boxes at Surat and Bombay were taken possession of by the respective office bearers and steps were taken by the Society to open the boxes. The collection boxes at Bombay, which were opened in the afternoon of January 17, 1978, were found to contain Rs. 22,11,000 in high denomination bank notes. The amount so received was properly minuted in the minute book and entered in the cash book. Thereafter the Society obtained the requisite statutory declaration form to be submitted for exchange of those notes and along with the declaration delivered the notes to the State Bank of India, Bombay on January 19, 1978.

As regards the boxes at Surat the petitioner's case is that they were opened on January 20, 1978 and found to contain Rs. 34,76,000 in high denomination bank notes. The above sum of money along with requisite declaration was deposited by the petitioner in the Bank in Bombay on January 23, 1978 along with a letter explaining the delay for failure to deposit the same within the prescribed time.

Thereafter from time to time the Society addressed letters and the State Bank of India, Bombay asking for payment of the value of the high denomination bank notes deposited. But it did not receive any thereto until April 25, 1978, when the Society received an order of the Currency Officer of the Bank rejecting their claim for exchange of the high denomination bank notes received in Surat on the grounds that the Society had not explained satisfactorily its failure to open the collection boxes immediately

A after issue of the Ordinance and that it had not been established to his satisfaction that the notes had reached the Society before demonetisation. Aggrieved by the above order the Society preferred an appeal under Section 8(3) of the Demonetisation Act to the Central Government. After giving a personal hearing to the Society the Central Government dismissed the appeal with the following findings :

B

C "As far as the notes found at Surat are concerned, the Government of India agree with the Reserve Bank of India that the failure on the part of the trust to open the collection boxes at Surat immediately after the issue of Ordinance has not been satisfactorily explained. The trustees have admitted knowledge of the promulgation of the Ordinance on the evening of 16th January, 1978 and opened the boxes at Bombay on 17th of January. They could have taken similar precautions and had the Surat boxes also opened immediately. The fact that the boxes were opened on the 20th January, 1978 and then declared on the 23rd of January 1978 does leave scope for doubt as to whether the trust was in possession of the high denomination notes on or before the 16th January, 1978 and not subsequently.

D

E The Trust has also furnished details of the collection from the boxes on earlier occasions. During 1977 the boxes were opened on five occasions, the details of which are as follows :

Details of cash boxes collection at Surat.

F	<u>1977</u>	<u>Amount</u>
	January	Rs. 18,012
	April	Rs. 16,161
	May	Rs. 56,000
	June	Rs. 10,000
G	11th November	Rs. 20,051

H On previous occasions the amounts were much less and on 11th November, 1977 they were only Rs. 20,051. Thus in more than 5 months, June 77 to November 77, the total collections were a little over to Rs. 20,000 which come to an average of about Rs. 5,000 per month. Keeping these facts in view it seems most unlikely that

the donations in the next two months i.e., November, 1977 to January 16, 1978 would aggregate to Rs. 34,75,519 out of which Rs. 34,76,000 would be in high denomination notes. Besides the appellant had also not been able to prove that even in the past the trust was getting donations in high denomination notes from the charity boxes and that this was a regular feature."

In impugning the order of the Currency Officer of the Bank it was submitted on behalf of the petitioner that no opportunity of being heard was given to the Society so as to enable it to explain the reasons for delay in submitting the declaration form. Even if we proceed on the assumption that such an opportunity of personal hearing was imperative to comply with the rules of natural justice the petitioner cannot raise any grievance on that score for the Appellate Authority gave them such an opportunity before dismissing their appeal. This apart, as noticed earlier, the Appellate Authority has given detailed reasons for its inability to accept the explanation of the Society for not filing the declaration in time. Under the Demonetisation Act if a holder of high denomination bank notes had acquired those notes after January 16, 1978 he would not be entitled to exchange the same. If, therefore, the Bank and the Central Government obtained a satisfaction that the Society failed to prove that the high denomination bank notes for which value was claimed had reached its hands on or before January 16, 1978 payment could legitimately be refused. It was however contended that the respondents having accepted their claim for exchange in respect of notes found in the collection boxes of Bombay ought to have accepted their explanation offered by them in respect of the notes received at Surat. It appears that this contention was raised before the Appellate Authority which rejected the same with the following observations :

"The Government of India have carefully considered all the facts of the case and are of the view that the decision regarding the amount found in the charity boxes maintained at Bombay which were opened on the 17th and declared on the 19th has hardly any relevant to the decision taken on the notes found in the charity boxes at Surat. The declaration regarding the notes found in the donation boxes at Bombay was within the prescribed time i.e. 19th January, 1978 and if the forms were complete in all material particulars the bank had no alternative but to exchange the notes

A in accordance with the provisions of law. However, for the declarations filed after the 19th till the 24th the declarant had to satisfy the Reserve Bank regarding the reasons for delay and only if the Reserve Bank was fully satisfied could the notes be exchanged. It is, therefore, clear that the notes found in the boxes at Bombay and those found at Surat stand on a different footing."

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We need not however delve into the matter any further, for the above findings are of facts and nothing has been brought to our notice to indicate that the impugned orders are perverse. Indeed, the materials on record persuade us to hold that the reasons which weighed with the authorities to refuse payment to the Society in exchange of their high denomination bank notes are cogent and convincing. We, therefore, do not find any merit in this petition.

C

WRIT PETITION NOS. 97-100 OF 1981

D The petitioners herein are the trustees of Tulsiram Mansadevi Charity Trust ('Trust' for short) which is registered as a public charitable Trust under the Bombay Public Trusts Act, 1950. The object of the Trust, amongst others, is to render help to the poor and destitute. According to the petitioners, sometimes in 1977 one Gopaldas Aggarwal Foundation. ('Foundation' for short) a trust having common trustees with the Trust started a donation collection drive for their "Hospital Building & Equipment Fund" to be utilised for the proposed construction of hospital. The Trust also agreed to participate in that drive and accordingly undertook sale of donation tickets of the Foundation from door to door for cash. For that purpose, the Trust received donation tickets worth Rs. 3,00,000 from the Foundation and during the period between November 15, 1977 and January 14, 1978 managed to sell tickets worth Rs. 1,57,050 out of which Rs. 1,53,000 were in 153 currency notes of Rs. 1,000 each. The above sale was affected through employees of the Trust, its representatives and other persons connected or associated with the trustees, who rendered detailed account of such sale. Receipts in respect of the sales were recorded in the cash book of the Trust as and when received and the same was handed over to the said Foundation. According to the petitioners, no record was kept nor could be kept of the various individuals to whom the donation tickets were actually sold considering the manner in which the transactions took place. Besides, the petitioners aver, the donations were received in

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cash from the employees, representatives and associates and retained in the form received as the same had to be directly handed over to the Foundation on whose behalf the amounts had been collected. A

Consequent upon the promulgation of the High Denomination Bank Notes (Demonetisation) Ordinance on January 16, 1978 the Trust delivered a declaration in respect of the 153 currency notes of Rs. 1,000 each, which they had received by sale of tickets as also the notes on January 19, 1978 to the Bank at its office in Bombay. According to the petitioners the said declaration gave complete particulars of the said currency notes and also specifically stated that the amount had been received by way of donations. By its letter dated 4th October, 1978, the Bank however called for the following further details from the Trust : B C

- (a) Denominational details of the tickets issued for collection of donations, and the tickets actually sold till 14th January, 1978;
- (b) Whether high denomination notes were directly received, and if not, when and from whom the same were got exchanged, and also called upon the said Trust - D
- (c) To produce counter-foils of the tickets for perusal and return;

In response to the said requisitions the Trust furnished a statement giving complete particulars of the tickets sold by it, and produced the counter-foils of the tickets for perusal. E

Thereafter by its letter dated August 16, 1979 the Bank intimated the Trust that the declaration filed by the Trust could not be treated as complete in all material particulars for the following reasons : F

- (a) against column 15 of the said declaration form, it is stated that "the amount received as donations remaining in hand pending utilisation of the same". This seems very unusual since the said trust had a bank account and the cash was not required for being utilised in the very near future and G
- (b) against column 16 of the declaration, it is stated that "the amount was received from donors, names not recorded". This was a very vague reply and does not establish whether the notes were received before or after the promulgation of the Ordinance. Since H

A the amount was collected from donors, it was also not convicting that all of them would like to remain anonymous though they had donated for a good cause.

B and, accordingly rejected the Trust's claim for payment of the exchange value of the high denomination bank notes. Against such refusal the Trust preferred an appeal to the Government of India which was rejected by an order dated August 23, 1979. The above two orders are under challenge in these writ petitions.

C It was submitted on behalf of the petitioners that considering the manner in which the notes in question were received, the concerned authorities ought to have held the particulars given by it against Column Nos. 15 and 16 of the declaration were sufficient. The petitioners further contended that no obligation was cast upon them under the Demonetisation Act to furnish complete particulars of names of all the persons from whom notes had been acquired nor were they obligated to satisfy the Reserve Bank that the notes in question had been received before or after the Promulgation of the Ordinance. In all such circumstances, the petitioners urged, the impugned orders were liable to be quashed.

E Under Column 15 of the form of declaration, required to be filed under Section 7(2) of the demonetisation Act, the reasons for keeping the amount in cash and under Column 16 the source when and wherefrom the notes came into the possession of the declarant are to be disclosed. Having regard to the provisions of Section 3 and 4 of the Demonetisation Act the reasons for disclosure of such details are not far to seek. After the high denomination bank notes ceased to be valid tender on the expiry of January 16, 1978 transfer of the same to the possession of others thereafter was forbidden. That necessarily means, that the right and opportunity of exchanging those notes was available only to those persons who were possessing the same on January 16, 1978. Therefore, to obtain satisfaction that the declarant was in possession of the notes on or before January 16, 1978

G the Bank was required to make necessary enquiry and in that context complete disclosure of the particulars referred to in Column 15 and 16 absolutely necessary. As noticed earlier, in the declaration submitted by the petitioners it was stated against Column Nos. 15 and 16 that "amounts received by donations, remaining on hand pending utilisation of same" and

H "Donors name not recorded" respectively. The particulars so furnished did

not find favour with the concerned authorities for according to the authorities, as the trust had a bank account and the cash was not required to be utilised in the near future it seemed very unusual that it would be kept in hands pending utilisation. As regards the failure of the Trust to disclose the names of the donors, the comment was that this was a vague reply and did not establish whether notes were received before or after the Ordinance. Besides, it was observed that since the amounts were collected from donors it did not stand to reason that all the donors would like to remain anonymous though they had donated for a good cause. The grounds so canvassed in refusing payment to the petitioners cannot be said to be unreasonable or unjust so as to entitle us to disturb the same. These petitions are, therefore, also liable to be rejected.

On the conclusions as above we dismiss all the writ petitions but without any order as to costs.

V.S.S.

Petition dismissed.