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## PROFORMA FOR FIRST LISTING

### SECTION -PIL

**The case pertains to (Please tick/check the correct box)**

- Central Act: (Title): **NA**
  - Section: **NA**
  - Central Rule: (Title): **NA**
  - Rule No (s): **NA**
  - State Act: (Title): **NA**
  - Section: **NA**
  - State Rule: (Title): **NA**
  - Rule No (s): **NA**
  - Impugned Interim Order: (Date): **NA**
  - Impugned Final Order/Decree: (Date): **NA**
  - High Court: (Name): **NA**
  - Name of Judges: **NA**
  - Tribunal/Authority: (Name): **NA**
- 

1. Nature of matter: **Civil**
2. (a) Petitioner/Appellant: **Dwaipayan Bhowmick**  
(b) Email ID: **rdb.sc.legal@gmail.com**  
(c) Mobile Phone No.: **9922449812**
3. (a) Respondent: **Union of India and Ors.**  
(b) Email ID: **NA**  
(c) Mobile Phone No.: **NA**
3. (a) Main Category Classification:  
(b) Sub Classification:
4. Not to be Listed Before: **NA**
5. Similar Pending Matter: **NO SIMILAR MATTER PENDING**
6. Criminal Matters: **NA**  
(a) Whether accused/convict has surrendered: **NA**  
(b) FIR No. and Date: **NA**

- (c) Police Station: **NA**
- (d) Sentence Awarded: **NA**
8. Land Acquisition Matters: **NA**
- (a) Date of Section 4 Notification: **NA**
- (b) Date of Section 6 Notification: **NA**
- (c) Date of Section 1 Notification: **NA**
9. Tax Matters: State the tax effect: **NA**
1. Special Category (First Petitioner/Appellant Only):  
Senior Citizen/ 65 Years/ SC/ ST/ Woman/ Child/  
Disabled/ Legal Aid Case/ In Custody: **NA**
2. Vehicle Number (In case of Motor Accident Claim  
matters): **NA**
3. Decided cases with citation: **NA**

**PASHUPATI NATH RAZDAN**  
**ADVOCATE FOR THE PETITIONER**  
**REGISTRATION NO.2054**  
**EMAIL. shaktirazdan82@gmail.com**

**DATE 03.11.2017**  
**NEW DELHI**

## **SYNOPSIS AND LIST OF DATES**

That the instant Public Interest Litigation by way of Writ Petition has been preferred before this Hon'ble Court under Order 38 Rule 12 of SCR 2013 read with Article 142 of the Constitution of India seeking issuance of directions of appropriate nature so as to regulate the flow of Bitcoin (crypto money) and to ensure that the same be made accountable to exchequer.

Bitcoin is a digital currency that allows people to buy goods and services and exchange money without involving banks, credit card issuers or other third parties.

In recent cyber-attacks, "ransomware" hackers held victims hostage by encrypting their data and demanding them to send payments in bitcoins to regain access to their computers.

Bitcoin is not tied to a bank or government and allows users to spend money anonymously. The coins are created by users who 'mine' them by

lending computing power to verify other users' transactions. They receive bitcoins in exchange. The coins also can be bought and sold on exchanges with US dollars and other currencies.

Despite the Reserve Bank's call for caution to people against the use of virtual currencies, domestic Bitcoin exchange have been adding over 2,500 users a day and had reached five lakh downloads.

It is stated that Transactions and accounts can be traced, but the account owners aren't necessarily known. However, investigators might be able to track down the owners when bitcoins are converted to regular currency.

The bitcoin network works by harnessing individuals' greed for the collective good. A network of tech-sevvy users called miners keep the system honest by pouring their computing power into a blockchain, a global running tally of every bitcoin transaction.

The blockchain prevents rogues from spending the same bitcoin twice, and the miners are rewarded for

their efforts by being gifted with the occasional bitcoin.

It is submitted that certain countries have made Bitcoin (crypto money) subject to their respective tax regimes, while a few other countries have designated it as a commodity, thereby making Bitcoin (crypto money) subject to government regulation and accountable to exchequer but no such mechanism exists in India till date.

It is submitted that money used to buy Bitcoin (crypto money) from foreign locations is completely untraceable and may be used for trading and various other financial activities directly from crypto currency accounts without any accountability. It is pertinent to mention herein that such trades affect the market value of other commodities inevitably. The Chinese government has banned the issuance of new digital coins for fundraising, also known as initial coin offerings, and the Russian courts pronouncing the transfer of cryptocurrency into Roubles as illegal further highlights the importance of issue whether in India Bitcoin (crypto money) be



allowed or not & the same is the primary concern in instant petition.

It is pertinent to mention that at present, the Reserve Bank of India regards cryptocurrencies as a violation of the country's existing foreign exchange norms. This is because the conversion of Bitcoins into foreign exchange does not currently fall under the purview of the central banking institution making such transactions highly unsafe and vulnerable to cyber-attacks.

Further as stated by RBI executive director Sudarshan Sen, "Right now, we have a group of people who are looking at fiat cryptocurrencies. As regards to non-fiat crypto currencies like Bitcoins, think we are not comfortable with them"

That currently no regulator be it, SEBI, authorities under FEMA or money laundering act or even the income tax officials have got no power to track, monitor and regulate such crypto money account to crypto money account transfers.

“You can’t stop things like Bitcoin. It will be everywhere and the world will have to readjust. World governments will have to readjust” – John McAfee, Founder of McAfee

It seems the Indian government has just decried McAfee’s belief with their latest provision. Reportedly, the Reserve Bank of India (RBI) has issued a statement dated 24.12.2013 & 01.02.2017 against the usage of virtual currencies/encrypted money like bitcoin. The further usage of any such currency will be considered as breach of anti-money laundering provisions.

As stated by Minister of State for Finance Arjun Ram Meghwal, “The absence of counter parties in usage of virtual currencies, including bitcoins, for illicit and illegal activities in anonymous/pseudonymous systems could subject the users to unintentional breaches of anti-money laundering and combating the financing of terrorism laws.”

After the RBI has been warning and issuing notices against cryptocurrency several times in the last few years, Bitcoin exchanges in India had to halt their

operations after a similar announcement by the RBI. Also, raids were carried out on bitcoin trading platforms. Post RBI warning and raids, where several Indian digital currency companies like Laxmicoin postponed their launch, some continued with trading.

Furthermore, in June 2015, the bitcoin exchange BTCX India was shut down. In August 2015, RBI's then deputy governor Shri R Gandhi also stated, "Digital currencies and crowdfunding have the potential to support criminal, anti-social activities like money laundering, terrorist funding, and tax evasion. While we do not have any reported instances of crowdfunding in this respect, cryptocurrencies have been widely suspected to finance criminal activities. We have to be carefully and critically watching these developments."

Bitcoin was introduced in 2008 by an unidentified group of programmers as a cryptocurrency as well as an electronic payment system. It is, reportedly the first decentralised digital currency where peer-

to-peer transactions take place without any intermediary.

There are over 20 other cryptocurrencies which exist today. Most of them came after bitcoin, even though bitcoin was precisely not the first. The list includes Litecoin, Peercoin, Primecoin, Ripple, Quark, and more. However, bitcoin is the only one which has created any kind of buzz, including in developing countries like India.

Initially dealing with low acceptance and trust issues from the regulatory bodies, 2016 was the year bitcoin gained countrywide acceptance. As per a Trak.in report, in 2016, the country possessed around 50,000 bitcoin wallets and around 700-800 bitcoins were traded every day. With bitcoin transactions reaching INR 500 Cr a year, the cryptocurrency had started finding applications in areas such as ecommerce, paying bills, and buying gift vouchers from popular online retail sites.

This was the time when RBI too “appreciated the strengths of of the underlying ‘blockchain’

technology,” and there were hints in the air to use bitcoin wallets in remote areas instead of putting up brick and mortar banks. Also, bitcoin was considered useful in reportedly saving over \$7 Bn in fees paid to third parties during transactions with companies such as PayPal, Western Union or to banks through transfer and exchange rate fees.

That Co-founder of Zebpay (one crypto wallet) and a member of the CryptoCurrency Certification Consortium, in an article stated bitcoin as the future of finance, finding applications in ‘identification and authentication,’ ‘creation of digital assets,’ ‘micropayments’ and ‘for creating a decentralised notary’. Not only this, bitcoin was described as virtual gold.

Apart from this, the virtual currency segment has also attracted leading angels and venture capitalists to invest in bitcoin startups. In September 2016, Bengaluru-based Bitcoin startup Unocoin raised \$1.5 Mn in a Pre-Series A round, while in April 2016, Ahmedabad-based mobile bitcoin wallet startup, Zebpay, raised \$1 Mn in Series A funding.

In February 2014, India's first bitcoin retailer – Highkart.com was launched as the first ecommerce site to accept bitcoin payments exclusively. The first fully compliant bitcoin exchange, BTCXIndia, was also set up in Hyderabad. In December 2015, former RBI chief Raghuram Rajan said the digital currency was 'fascinating' and that India's central bank could use digital currencies.

However, even with several defined use cases, it has come out that bitcoin also attracted criminals for charging ransomware, people using it for tax evasion and more. Since then financial regulators, legislative bodies, law enforcers and media all over the world have continuously debated on its legality and usage. Infact, a recent Forbes report also termed bitcoin as the 'blood diamonds' of the digital era citing it as a mere medium of exchange for lawbreakers.

With this evolution, it is not hard to imagine a world where existing forms of currency become obsolete (along with the tedium of transactions) and

cryptocurrency (stands for secure, encrypted currency) take its place. Bitcoin, for the most part, has had legitimate uses and while the 'mining' of bitcoin is a time-consuming and expensive process, it also has opened up the door for changing the global mindset of people when it comes to the one thing they hold most precious – money.

But, the government's concerns cannot be overlooked either, as no form of currency (crypto and otherwise) can be used to bypass and launder money or finance terrorist activities. If used judiciously, and within the defined legal framework, bitcoin could become a gamechanger, taking fintech to the next level in the coming decades.

That the inter-disciplinary committee chaired by Special secretary in Department of Economic Affairs has submitted its report in August, 2017 and the contents of the report have not yet been made public.

The committee's report carried the following points:

- Bitcoins would fall under the purview of RBI's 1934 Act.

- Bitcoin investors should be taxed.
- The RBI would have to issue guidelines regarding investment and purchase of Bitcoins.
- If any foreign payment is made through Bitcoins, it would fall under the purview of FEMA Act.

Japan had recently passed a law to recognise Bitcoin as a legal method of payment. Bitcoin is a new concept, but is in the process of being understood and adopted by a growing number of consumers, businesses and investors around the world. If at all allowed should crypto-currencies be recognised as a separate new asset class is another issue raised in the instant Petition.

Recently in August, international Bitcoin exchange BitBay started operations in India, as part of a move geared towards the expansion of its cryptocurrency trading business. Headquartered in Poland, the company is also looking to source local IT talent for product development. This move makes it the first international Bitcoin trading platform to enter India.



Recently, Jamie Dimon, CEO of JPMorgan Chase, made headlines for dubbing Bitcoin as a “fraud” that will eventually “blow up”.

It is further stated that the current value of One Bitcoin is \_\_\_\_\_INR. A bare perusal of the said market price would reveal the large scale financial implications such crypto money could cause apart from anti-national activities like terror funding, money laundering, religious conversions, drug trafficking etc., etc.

It is further stated that RBI & SEBI have been trying to shift the onus on each other by asking it to be termed as ‘currency’ or ‘commodity’.

It is further stated that this Hon’ble Court on 14/7/17 Disposed a WP (C) 406/2017 in terms of a directions of representation to RBI, but instant PIL raises more substantial issues.

Hence it is important that Bitcoin be prohibited or alternatively some mechanism be framed so as to regulate the flow of Bitcoin (crypto money) and to

ensure that the same be made accountable to  
exchequer.

03.11.2017 Hence the present writ petition.



Niketan, 6, CGO  
Complex, Lodhi Road,  
New Delhi - 110003

**Respondent No.3**

4. Securities and Exchange  
Board of the India  
(SEBI), Through its  
Director, Plot No. C4-A  
, 'G' Block Bandra - Kurla  
Complex, Bandra (East),  
Mumbai - 400051,  
Maharashtra

**Respondent No.4**

5. Reserve Bank of India  
(RBI), Through its  
Director, 6, Sansad  
Marg, New Delhi 110001

**Respondent No.5**

6. Income Tax, Through its  
Secretary, Room No 355,  
Central Revenue  
Building, ITO, Delhi-  
110002, I P Estate

**Respondent No.6**

7. Enforcement Directorate  
Through its Joint  
Director (Admn),  
Enforcement Directorate,  
6<sup>th</sup> Floor, Lok Nayak

Bhawan, Khan Market,  
New Delhi-110003

**Respondent No.7**

**A PUBLIC INTEREST LITIGATION BY WAY OF A WRIT  
PETITION UNDER ORDER 38 RULE 12 SCR 2013  
READ WITH ARTICLE 142 OF THE CONSTITUTION OF  
INDIA SEEKING ISSUANCE OF DIRECTIONS OF  
APPROPRIATE NATURE SO AS TO REGULATE THE  
FLOW OF BITCOIN (CRYPTO MONEY) AND TO  
ENSURE THAT THE SAME BE MADE ACCOUNTABLE  
TO EXCHEQUER.**

TO,  
HON'BLE THE CHIEF JUSTICE OF INDIA  
AND HIS LORDSHIP'S COMPANION JUSTICES OF THE  
SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE  
PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:-

1. That the instant Public Interest Litigation by way of Writ Petition has been preferred before this Hon'ble Court under Order 38 Rule 12 of SCR 2013 read with Article 142 of the Constitution of India seeking issuance of directions of appropriate nature so as to regulate the flow of Bitcoin (crypto money) and to ensure that the same be made accountable to exchequer.

- 1A. The Petitioner is an Advocate and Voter ID No. TBI0595355;
2. That the Petitioner is an Advocate. The lack of any concrete mechanism pending the regulatory framework in said regard has left a lot of vacuum and which has resulted in total unaccountability and unregulated Bitcoin (crypto money) trading and transactions.
3. That the petitioner is filing the present petition on her own and not at the instance of someone else. The litigation cost, including the advocate's fee and the travelling expenses of the lawyer, if any, are being borne by the petitioner herself.
4. That the facts constituting the cause of action leading to the filing of the petition are as follows:
  - 4.1. The lack of any concrete mechanism pending the regulatory framework in said regard has left a lot of vacuum and which has resulted in total unaccountability and unregulated Bitcoin (crypto money) trading and transactions.
  - 4.2. Bitcoin is a digital currency that allows people to buy goods and services and exchange money without involving banks, credit card issuers or other third parties.
  - 4.3. In recent cyber-attacks, "ransomware" hackers held victims hostage by encrypting their data and

demanding them to send payments in bitcoins to regain access to their computers.

- 4.4. Bitcoin is not tied to a bank or government and allows users to spend money anonymously. The coins are created by users who 'mine' them by lending computing power to verify other users' transactions. They receive bitcoins in exchange. The coins also can be bought and sold on exchanges with US dollars and other currencies.
- 4.5. Despite the Reserve Bank's call for caution to people against the use of virtual currencies, domestic Bitcoin exchange have been adding over 2,500 users a day and had reached five lakh downloads.
- 4.6. It is stated that Transactions and accounts can be traced, but the account owners aren't necessarily known. However, investigators might be able to track down the owners when bitcoins are converted to regular currency.
- 4.7. The bitcoin network works by harnessing individuals' greed for the collective good. A network of tech-sevvy users called miners keep the system honest by pouring their computing power into a blockchain, a global running tally of every bitcoin transaction.

- 4.8. The blockchain prevents rogues from spending the same bitcoin twice, and the miners are rewarded for their efforts by being gifted with the occasional bitcoin. As long as miners keep the blockchain secure, counterfeiting shouldn't be an issue.
- 4.9. It is submitted that certain countries have made Bitcoin (crypto money) subject to their respective tax regimes, while a few other countries have designated it as a commodity, thereby making Bitcoin (crypto money) subject to government regulation and accountable to exchequer but no such mechanism exists in India till date.
- 4.10. It is submitted that money used to buy Bitcoin (crypto money) from foreign locations is completely untraceable and may be used for trading and various other financial activities directly from cypto currency accounts without any accountability. It is pertinent to mention herein that such trades affect the market value of other commodities inevitably.
- 4.11. The Chinese government has banned the issuance of new digital coins for fundraising, also known as initial coin offerings, and the Russian courts pronouncing the transfer of cryptocurrency into Roubles as illegal further highlights the importance of issue whether in India Bitcoin



(crypto money) be allowed or not & the same is the primary concern in instant petition.

4.12. It is pertinent to mention that at present, the Reserve Bank of India regards cryptocurrencies as a violation of the country's existing foreign exchange norms. This is because the conversion of Bitcoins into foreign exchange does not currently fall under the purview of the central banking institution making such transactions highly unsafe and vulnerable to cyber-attacks.

4.13. Further as stated by RBI executive director Sudarshan Sen, "Right now, we have a group of people who are looking at fiat cryptocurrencies. As regards to non-fiat crypto currencies like Bitcoins, think we are not comfortable with them"

4.14. That currently no regulator be it, SEBI, authorities under FEMA or money laundering act or even the income tax officials have got no power to track, monitor and regulate such crypto money account to crypto money account transfers.

4.15. "You can't stop things like Bitcoin. It will be everywhere and the world will have to readjust. World governments will have to readjust" – John McAfee, Founder of McAfee

It seems the Indian government has just decried McAfee's belief with their latest provision. Reportedly, the Reserve Bank of India (RBI) has issued a statement dated 24.12.2013 & 01.02.2017 against the usage of virtual currencies/encrypted money like bitcoin. The further usage of any such currency will be considered as breach of anti-money laundering provisions. True type copy of RBI communication dated 24.12.2013 issued by Respondent No. 5 is annexed and marked herein as **Annexure P/1 (Page No. 20 TO 22)**.

True type copy of RBI communication dated 01.02.2017 issued by Respondent No. 5 is annexed and marked herein as **Annexure P/2 (Page No.23 )**.

4.16. As stated by Minister of State for Finance Arjun Ram Meghwal, "The absence of counter parties in usage of virtual currencies, including bitcoins, for illicit and illegal activities in anonymous/pseudonymous systems could subject the users to unintentional breaches of anti-money laundering and combating the financing of terrorism laws."

4.17. After the RBI has been warning and issuing notices against cryptocurrency several times in the last few years. Bitcoin exchanges in India had to halt their operations after a similar

announcement by the RBI. Also, raids were carried out on bitcoin trading platforms. Post RBI warning and raids, where several Indian digital currency companies like Laxmicoin postponed their launch, some continued with trading.

- 4.18. Furthermore, in June 2015, the bitcoin exchange BTCX India was shut down. In August 2015, RBI's then deputy governor Shri R Gandhi also stated, "Digital currencies and crowdfunding have the potential to support criminal, anti-social activities like money laundering, terrorist funding, and tax evasion. While we do not have any reported instances of crowdfunding in this respect, cryptocurrencies have been widely suspected to finance criminal activities. We have to be carefully and critically watching these developments."
- 4.19. Bitcoin was introduced in 2008 by an unidentified group of programmers as a cryptocurrency as well as an electronic payment system. It is, reportedly the first decentralised digital currency where peer-to-peer transactions take place without any intermediary. There are over 20 other cryptocurrencies which exist today. Most of them came after bitcoin, even though bitcoin was precisely not the first. The list includes Litecoin, Peercoin, Primecoin, Ripple, Quark, and more. However, bitcoin is the only one which has created any kind of buzz, including in developing countries like India.

4.20. Initially dealing with low acceptance and trust issues from the regulatory bodies, 2016 was the year bitcoin gained countrywide acceptance. As per a Trak.in report, in 2016, the country possessed around 50,000 bitcoin wallets and around 700-800 bitcoins were traded every day. With bitcoin transactions reaching INR 500 Cr a year, the cryptocurrency had started finding applications in areas such as ecommerce, paying bills, and buying gift vouchers from popular online retail sites.

This was the time when RBI too “appreciated the strengths of the underlying ‘blockchain’ technology,” and there were hints in the air to use bitcoin wallets in remote areas instead of putting up brick and mortar banks. Also, bitcoin was considered useful in reportedly saving over \$7 Bn in fees paid to third parties during transactions with companies such as PayPal, Western Union or to banks through transfer and exchange rate fees.

4.21. That Co-founder of Zebpay (one crypto wallet) and a member of the CryptoCurrency Certification Consortium, in an article stated bitcoin as the future of finance, finding applications in ‘identification and authentication,’ ‘creation of digital assets,’ ‘micropayments’ and ‘for creating a decentralised notary’. Not only this, bitcoin is described as virtual gold.

- 4.22. Apart from this, the virtual currency segment has also attracted leading angels and venture capitalists to invest in bitcoin startups. In September 2016, Bengaluru-based Bitcoin startup Unocoin raised \$1.5 Mn in a Pre-Series A round, while in April 2016, Ahmedabad-based mobile bitcoin wallet startup, Zebpay, raised \$1 Mn in Series A funding.
- 4.23. In February 2014, India's first bitcoin etailer – Highkart.com was launched as the first e-commerce site to accept bitcoin payments exclusively. The first fully compliant bitcoin exchange, BTCX India, was also set up in Hyderabad. In December 2015, former RBI chief Raghuram Rajan said the digital currency was 'fascinating' and that India's central bank could use digital currencies.
- 4.24. However, even with several defined use cases, it has come out that bitcoin also attracted criminals for charging ransomware, people using it for tax evasion and more. Since then financial regulators, legislative bodies, law enforcers and media all over the world have continuously debated on its legality and usage. Infact, a recent Forbes report also termed bitcoin as the 'blood diamonds' of the digital era citing it as a mere medium of exchange for lawbreakers.

- 4.25. With this evolution, it is not hard to imagine a world where existing forms of currency become obsolete (along with the tedium of transactions) and cryptocurrency (stands for secure, encrypted currency) take its place. Bitcoin, for the most part, has had legitimate uses and while the 'mining' of bitcoin is a time-consuming and expensive process, it also has opened up the door for changing the global mindset of people when it comes to the one thing they hold most precious – money.
- 4.26. But, the government's concerns cannot be overlooked either, as no form of currency (crypto and otherwise) can be used to bypass and launder money or finance terrorist activities. If used judiciously, and within the defined legal framework, bitcoin could become a gamechanger, taking fintech to the next level in the coming decades.
- 4.27. That the inter-disciplinary committee chaired by Special secretary in Department of Economic Affairs has submitted its report in August, 2017 and the contents of the report have not yet been made public.

The committee's report carried the following points:

- Bitcoins would fall under the purview of RBI's 1934 Act.

- Bitcoin investors should be taxed.
- The RBI would have to issue guidelines regarding investment and purchase of Bitcoins.
- If any foreign payment is made through Bitcoins, it would fall under the purview of FEMA Act.

4.28. Japan had recently passed a law to recognise Bitcoin as a legal method of payment. Bitcoin is a new concept, but is in the process of being understood and adopted by a growing number of consumers, businesses and investors around the world. If at all allowed should crypto-currencies be recognised as a separate new asset class is another issue raised in the instant Petition.

4.29. Recently in August, international Bitcoin exchange BitBay started operations in India, as part of a move geared towards the expansion of its cryptocurrency trading business. Headquartered in Poland, the company is also looking to source local IT talent for product development, This move makes it the first international Bitcoin trading platform to enter India.

- 4.30. Recently, Jamie Dimon, CEO of JPMorgan Chase, made headlines for dubbing Bitcoin as a “fraud” that will eventually “blow up”.
- 4.31. It is further stated that the current value of One Bitcoin is \_\_\_\_\_INR. A bare perusal of the said market price would reveal the large scale financial implications such crypto money could cause apart from anti-national activities like terror funding, money laundering, religious conversions, drug trafficking etc., etc.
- 4.32. It is to be noted that Bitcoin (crypto money) is neither falling under the definition of money/currency nor share/debenture/commodity but is an entity with financial value and hence liable to be made subject to statutory regulation of some kind.
- 4.33. It is further stated that RBI & SEBI have been trying to shift the onus on each other by asking it to be termed as ‘currency’ or ‘commodity’.
- 4.34. It is further stated that this Hon’ble Court on 14/7/17 Disposed a WP (C) 406/2017 in terms of a directions of representation to RBI, but instant PIL raises more substantial issues. True copy of Order Dated 14.07.2017 is annexed and marked herein as **Annexure P/3 (Page No.23 to 25 )**.



5. That the Petitioner has no personal interest involved in the instant Petition.
6. That there is no civil, criminal or revenue litigation involving the Petitioner, which has or could have so legal nexus with the issues involved in the instant Public Interest Litigation.
- 6A. That the petitioner has not filed any other or similar matter before this Hon'ble Court or any other Court for similar relief.
7. That the Petitioner has not approached any Government Authority for reliefs sought in the present petition as the same would be otiose. It is further stated that if legalized the same would result into an irreversible situation for Indian economy and as such this Hon'ble Court ought to look into the issue at this stage itself and any such forward move must take place under the guidance of this Hon'ble Court.
1. That the instant petition is prepared on the basis of information gathered from various newspaper articles and after experiencing the Bitcoin (crypto money) trading in one of the many online applications available for doing the same.
1. That in view of the above, the present petition has been filed inter-alia, on the following amongst other grounds:

## **FOUNDATIONS**

- A. For the lack of any concrete mechanism pending regulatory framework in said regard has left a lot of vacuum and which has resulted in total unaccountability and unregulated Bitcoin (crypto money) trading and transactions.
- B. For the delay in such a situation has the seed that can cause grave financial implication on the economy of the country. It is pertinent to mention herein that emerging trend of crypto money if unchecked and unregulated is threat to exchequers money and financial sovereignty of the country.
- C. For certain countries have made Bitcoin (crypto money) subject to their respective tax regimes, while a few other countries have designated it as a commodity, thereby making Bitcoin (crypto money) subject to government regulation and accountable to exchequer but no such mechanism exists in India till date.
- D. For the money used to buy Bitcoin (crypto money) from foreign locations is completely untraceable and may be used for trading and various other financial activities directly from cypto currency accounts without any accountability. It is pertinent to mention herein that such trades affect the market value of other commodities inevitably.

- E. Because currently no regulator be it, SEBI, authorities under FEMA or money laundering act or even the income tax officials have got no power to track, monitor and regulate such crypto money account to crypto money account transfers.
- F. For a bare perusal of the current market price of one Bitcoin would reveal the large scale financial implications such crypto money could cause apart from anti-national activities like terror funding, money laundering, religious conversions, drug trafficking etc., etc.
- G. For Bitcoin (crypto money) is neither falling under the definition of money/currency nor share/debenture/commodity but is an entity with financial value and hence liable to be made subject to statutory regulation of some kind.
- H. For the other grounds shall be raised at the time of hearing. It is further stated that the petitioner reserves the right to raise additional grounds subsequent to the response of the respondents herein.
10. Thus, in view of the above, it is in the interest of justice to issue directions of appropriate nature so as to regulate the flow of Bitcoin (crypto money) and to ensure that the same be made accountable to exchequer.

**PRAYER**

In view of the above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to–

- a) Issue urgent directions of appropriate nature so as to direct the Respondents to regulate the flow of Bitcoin (crypto money) and to ensure that the same be made accountable to exchequer;
- b) Constitute a committee for framing of appropriate mechanism to regulate the flow of Bitcoin (crypto money) and to ensure that the same be made accountable to exchequer;
- c) Constitute a committee of experts to consider the prohibition/regulation of Bitcoin & other crypto currency;
- d) Pass any other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE PETITIONER AS IS DUTY BOUND SHALL EVER PRAY.

Drawn By:

KAPIL JOSHI

Filed by:

(PASHUPATI NATH RAZDAN)  
ADVOCATE FOR THE PETITIONER

NEW DELHI

DRAWN ON: 03.11.2017

FILED ON: 03.11.2017

**ANNEXURE P/1**

**DEPARTMENT OF COMMUNICATION, CENTRAL  
OFFICE, S.B. MARG, MUMBAI-400001  
PHONE: +912222660502**

**Reserve Bank of India  
Website [www.rbi.org.in](http://www.rbi.org.in)  
Email. [helpdoc@rbi.org.in](mailto:helpdoc@rbi.org.in)  
Date : Dec 24, 2013**

**RBI cautions users of Virtual Currencies against  
Risks**

The Reserve Bank of India has today cautioned the users, holders and traders of Virtual currencies (VCs), including Bitcoins, about the potential financial, operational, legal, customer protection and security related risks that they are exposing themselves to.

The Reserve Bank has mentioned that it has been looking at the developments relating to certain electronic records claimed to be "Decentralised Digital Currency" or "Virtual Currency" (VCs), such as, Bitcoins, litecoins, bbqcoins, dogecoins etc., their usage or trading in the country and the various media reports in this regard.

The creation, trading or usage of VCs including Bitcoins, as a medium for payment are not authorised by any

central bank or monetary authority. No regulatory approvals, registration or authorisation is stated to have been obtained by the entities concerned for carrying on such activities. As such, they may pose several risks to their users, including the following:

- VCs being in digital form are stored in digital/electronic media that are called electronic wallets. Therefore, they are prone to losses arising out of hacking, loss of password, compromise of access credentials, malware attack etc. Since they are not created by or traded through any authorised central registry or agency, the loss of the e-wallet could result in the permanent loss of the VCs held in them.
- Payments by VCs, such as Bitcoins, take place on a peer-to-peer basis without an authorised central agency which regulates such payments. As such, there is no established framework for recourse to customer problems / disputes / charge backs etc.
- There is no underlying or backing of any asset for VCs. As such, their value seems to be a matter of speculation. Huge volatility in the value of VCs has been noticed in the recent past. Thus, the users are exposed to potential losses on account of such volatility in value.

- It is reported that VCs, such as Bitcoins, are being traded on exchange platforms set up in various jurisdictions whose legal status is also unclear. Hence, the traders of VCs on such platforms are exposed to legal as well as financial risks.
- There have been several media reports of the usage of VCs, including Bitcoins, for illicit and illegal activities in several jurisdictions. The absence of information of counterparties in such peer-to-peer anonymous/pseudonymous systems could subject the users to unintentional breaches of anti-money laundering and combating the financing of terrorism (AML/CFT) laws. The Reserve Bank has also stated that it is presently examining the issues associated with the usage, holding and trading of VCs under the extant legal and regulatory framework of the country, including Foreign Exchange and Payment Systems laws and regulations.

**Ajit Prasad**

Assistant General Manager

**Press Release : 2013-2014/1261**

**TRUE COPY**



**ANNEXURE P/2**

**DEPARTMENT OF COMMUNICATION, CENTRAL  
OFFICE, S.B. MARG, MUMBAI-400001  
PHONE: +912222660502**

**Reserve Bank of India  
Website [www.rbi.org.in](http://www.rbi.org.in)  
Email. [helpdoc@rbi.org.in](mailto:helpdoc@rbi.org.in)**

**Date : Feb 01, 2017**

The Reserve Bank of India had cautioned the users, holders and traders of Virtual Currencies (VCs), including Bitcoins, about the potential financial, operational, legal, customer protection and security related risks that they are exposing themselves to, vide its press release dated December 24, 2013.

The Reserve Bank of India advises that it has not given any licence / authorisation to any entity / company to operate such schemes or deal with Bitcoin or any virtual currency. As such, any user, holder, investor, trader, etc. dealing with Virtual Currencies will be doing so at their own risk.

**Jose J. Kattoor**  
Chief General Manager

**Press Release: 2016-17/2054**

**TRUE COPY**

**IN THE SUPREME COURT OF INDIA  
WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2017  
(IN THE MATTER OF PUBLIC INTEREST LITIGATION)**

**IN THE MATTER OF:**

Dwaipayan Bhowmick .....Petitioner  
-Versus-  
Union of India & Others .....Respondents

**AFFIDAVIT**

I, Dwaipayan Bhowmick, S/o Sh. Manab Kumar Bhowmick, R/o- 67, Netaji Colony, Kolkata-700090 presently at New Delhi, do hereby solemnly affirm and declare as under:-

1. That I am the Petitioner in the accompanying Writ Petition and being so I am well conversant with the facts and circumstances of the instant case and thus duly competent to swear the instant Affidavit.
2. That I have read and understood the contents of the accompanying Writ Petition at paragraph nos. 1 to 10 at page no. \_\_\_\_ to \_\_\_\_ of the accompanying Affidavit, which has been drafted by me and I state that the content thereof are true and correct to my best knowledge and belief.
3. That the annexures annexed with the accompanying Writ Petition are the true copies of their respective originals.
4. That the Petitioner has no personal gain, private motive or oblique reason in filing the instant Public Interest Litigation.

DEPONENT

**VERIFICATION**

Verified at New Delhi on this \_\_\_\_\_ day of Nov 2017 that the contents of the aforesaid Affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

DEPONENT

