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SC Quashed Ban on Virtual Currency

Why in News?

The Supreme Court (SC) has set aside a ban by the Reserve Bank of India (RBI) on virtual currency.

What was the ban?

- In a 2018 circular, the RBI had banned banks from dealing with virtual currency exchanges and individual holders.
- This ban was based on the grounds that these currencies had **no underlying fiat**.
- The RBI said that this ban was necessary in the **larger public interest** to stop banks from providing any services related to these.

Why this ban was set aside by the SC?

- The court held that the ban didn't pass the "proportionality" test.
- The test of proportionality of any action by the government, the court held, must pass the test of Article 19 (1) (g).
- [Article 19(1)(g) - All citizens of the country will have the right to practise any profession, or carry on any occupation or trade and business.]

What are virtual currencies?

- As there is no globally accepted definition, virtual currency may be regarded as a method of exchange of value; or as a commodity.
- It may be defined as a **new electronic cash system** that's fully peer-to-peer, with no trusted third party.
- There would be **no central regulator** for virtual currencies as they would be placed in a globally visible ledger, accessible to all its users.
- All users of such virtual currencies would be able to see and keep track of the transactions taking place.
- Virtual currency is the larger umbrella term for all forms of non-fiat currency being traded online.
- They are mostly created, distributed and accepted in local virtual networks.

Why did the RBI ban virtual currencies?

- The RBI flagged its concerns on trade and use of the currency due to,
  1. Lack of any underlying fiat,
  2. The episodes of excessive volatility in their value,
  3. Their anonymous nature which goes against global money-laundering rules,
  4. Risks and concerns about data security and consumer protection,
  5. Its potential impact on the effectiveness of monetary policy.
- The RBI argued in the SC that these currencies weren't safe for use due to a significant shoot in the valuation of many virtual currencies and rapid growth in initial coin offerings.

What did the petitioners say?

- The petitioners included virtual currency exchanges operational in the country.
- They told the SC that the **RBI action was outside its purview** as the non-fiat currency was not a currency as such.
- Arguing that the ban was solely on "moral grounds", the petitioners said the RBI should have adopted a **wait-and-watch approach**.

What did the SC rule?

- In its judgment, the SC held that the RBI directive came up short on the five-prong test to check proportionality.
- The court did not agree, however, with any other submission made by the petitioners.
- The court said that the RBI could not be faulted for not adopting a "light-touch" approach as adopted by the developed economies.
- Therefore, the court said that it won't test the correctness of the measure taken by RBI on the basis of the approach adopted by other countries.
- The verdict removes the arbitrariness of regulatory actions without disregarding the power of RBI to regulate.

What happens now?

- The SC's judgment could lead to the RBI rethinking its policies surrounding virtual currencies.
- If rethought, the RBI may come up with a new framework that deals with the reality of these technological advancements.
- The decision will help those investors who had used this money through banking channels.

Source: The Indian Express

Quick Facts

Five-prong Test to check Proportionality

- Direct and immediate impact upon fundamental rights.
- The larger public interest sought to be ensured.
- Necessity to restrict citizens’ freedom.
- Inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public.
- The possibility of achieving the same object by imposing a less drastic restraint.