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News: SC majority ruling finds no flaw in 2016 demonetisation process

- A majority of four judges on a Constitution Bench of the Supreme Court on Monday found no flaw in the Union government's process to demonetize ₹500 and ₹1,000 banknotes through a Gazette notification issued on November 8, 2016.
- The sole woman judge on the five members Bench, Justice B.V. Nagarathna, however, disagreed with the majority, saying the government's notification issued under Section 26(2) of the Reserve Bank of India (RBI) Act was unlawful.
- Section 26 (2) of the Reserve Bank of India Act states that, “On recommendation of the Central Board the Central Government may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender”.

Constitution Bench

- A Constitution Bench is a bench of the Supreme Court having five or more judges on it.
- These benches are not a routine phenomenon.
- A vast majority of cases before the Supreme Court are heard and decided by a bench of two judges (called a Division Bench), and sometimes of three.
- Keshavananda Bharati vs State of Kerala (infamous Basic Structure Doctrine case) saw the most number of judges in a single panel, consisting of 13 judges in it.

Circumstances for Constitutional Bench to Exist

Article 145(3)

- Article 145(3) provides, “The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five.”

Article 143

- When the President seeks the Supreme Court’s opinion under law under Article 143 of the Constitution.

- As per the provision, the **President of India has the power to address questions to the Supreme Court, which he deems important for public welfare.**
- The Supreme Court upon reference advises the President by answering the query. However, such **referral advice by the apex court is not binding on the President, nor is it ‘law declared by the Supreme Court’.**

Conflicting Judgments

- When **two or more three-judge benches of the Supreme Court have delivered conflicting judgments on the same point of law, necessitating a definite understanding and interpretation of the law by a larger bench.**
- The **Constitution benches are set up on ad hoc basis as and when the above-mentioned conditions exist.**

Legal Tender

- **Legal Tender Money is anything recognised by law as a means to settle a public or private debt or meet a financial obligation, including tax payments, contracts, and legal fines or damages.**
- **In almost every country, the national currency is legal tender.**
- **A creditor is required by law to accept legal tender as payment for a debt.**

- The RBI Act of 1934, which grants the Central Bank the sole authority to issue banknotes, states that “every banknote shall be legal tender in payment for the amount expressed therein in any place in India”.
- The acceptance or rejection of legal tender status is significant because paper money derives all of its value from the government's acceptance of it.
- The RBI and the government issue legal tender money in the form of currency notes or coins. When this legal tender status is withdrawn, the process is known as demonetization.
- Bank cheques are not considered legal tender and hence can be rejected by the creditor in return to the payment due to them.