

# Banking ban on cryptocurrencies considered disproportionate by SC

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By Anandi Chandrashekhar ET Bureau | Last Updated: Mar 04, 2020, 05.49 PM IST

Mumbai: The Supreme Court bench cited "grounds of proportionality" in its verdict on Wednesday which overturned the Reserve Bank of India's decision to disallow banks from trading in cryptocurrencies. The three judge bench comprised of Justices R F Nariman, Aniruddha Bose and V Ramasubramanian.

A copy of the 180-page judgement accessed by ET said that, "The petitioners are entitled to succeed and the impugned Circular dated 06-04-2018 is liable to be set aside on the ground of proportionality. Accordingly, the writ petitions are allowed and the Circular dated 06- 04-2018 is set aside."

The Reserve Bank of India in April 2018 had issued a circular asking banks and regulated entities to refrain from dealing in virtual currencies. The move had led to the shutdown of many cryptocurrency startups and led to a decline in overall trading volumes of cryptocurrencies.

The Internet and Mobile Association of India representing cryptocurrency startups had argued in the Supreme Court that the RBI circular was disproportionate. "They (Three-judge bench) have cited the ground of proportionality which is the doctrine that the fundamental right cannot be infringed upon in a disproportionate manner - in other words a measure has to be rationally connected to the ends," said Jaideep Reddy lawyer at Nishith Desai Associates, which is representing IAMAI, in the case.

Abhishek A Rastogi, Partner at Khaitan & Co, who argued the writ for Kali Digital in Delhi High Court and Supreme Court, commenting on the judgement said, "This decision will change the entire regulatory landscape for cryptocurrency in India and is expected to bring the business back to India. This decision will help those investors who had used legitimate money through banking channels."

Industry bodies and founders of cryptocurrency exchanges have said that the verdict would help in shaping discussions on regulating cryptocurrency trade in the country and opening up the Indian market to global crypto trade.

"We have always been bullish on this segment, we believe that this sector should be open and have said that industry players are open for regulation. Crypto is a part of the country's digital economic growth, so we welcome the Supreme Court's judgment," said Naveen Surya, Chairman Emeritus, Payments Council of India, a part of IAMAI and Chairman, Fintech Convergence Council.

"Today's judgement was a landmark judgement for crypto community in India, the judgement opens the door for millions of Indians to invest/ buy / sell crypto via bank accounts in a safe and responsible manner," said Harish BV, co-founder of Unocoin, a cryptocurrency exchange.

Clarity is, however, awaited on whether the parliament would be discussing a draft bill banning the use of cryptocurrency as legal tender in India. The draft bill prohibits mining, buying, holding, selling, dealing in, issuance, disposal or use of cryptocurrency.