

IN THE SUPREME COURT OF MAURITIUS

WRITTEN STATEMENT IN POLICE ENQUIRY OB 103/2015

I, Rundheersing BHEENICK, aged 70 years, holder of National Identity Card No. B0110441404297 and residing at Palm Lane, Gently, Moka,

MAKE SOLEMN AFFIRMATION AS A HINDU AND SAY THAT:

I had the honour and privilege of serving as Governor of the Bank of Mauritius ("BOM") for several years. I was first appointed in February 2007 for a period of three years, then again in May 2010 for a period of 3 years, which was renewed for a further period of 3 years in May 2013.

On 13 February 2015, purporting to act upon a declaration given by Mr J K Ramtohul, in his capacity of Head of Corporate Services ("HCS") of BOM, on Thursday 12 February 2015, DCP 5090 SOOBEN posted at Central Criminal Investigation Division ("CCID") sought and obtained a search warrant (the "first warrant") from the Magistrate of the District Court of Port Louis (3rd Division) to search my residence at the aforesaid address.

- 17/150
- On Friday 13 February 2015, at around midday, Police Officers of the CCID, entered and searched my residence *generally* for "documents, files and money" in the purported execution of the said warrant. I allowed the execution of the warrant in the belief that it had been lawfully obtained.
 - The Police secured a number of documents pertaining to my work as former Governor including Board papers, packed in carton boxes, without even asking me about the circumstances in which I came into possession of those documents or what I intended to do with them.
 - The Police also secured my monies and were not interested in my explanations, saying that I could explain afterwards. During the search, I overheard one of the Police Officers talking to his hierarchical superior over the phone asking what to do with particular files and papers.
 - I was then taken to the offices of the CCID at Line Barracks Port Louis for verification of the exhibits seized and subsequently informed of my arrest. I was made to sign an entry in a Diary Book. At no time prior to my arrest did the Police Officers, who had searched my residence, inquire as to the circumstances in which I came into possession of the exhibits seized.
 - Shortly thereafter I was admitted to A.G Jeetoo Hospital for "uncontrolled hypertension and atypical chest pain". I was discharged against medical advice at 21h50 on the same day and escorted by the Police to Apollo Bramwell Hospital where I was again admitted. I state that, at the time of my arrest, I was already following treatment as an out-patient

(S. GOKOOL)

Chief Court Officer/Court Manager

at the said hospital for a heart condition.

- I aver that whilst I was admitted, the list of the exhibits, which the Police had seized at my residence, including the detailed breakdown by currencies of the monies seized, was published on the website of Le Defi Media Group.
- I was discharged from Apollo Bramwell Hospital on Monday 16 February at around 14h30 and the Police Officers posted at the CCID drove me to their offices at Line Barracks, Port Louis.
- On the same day, at 16h50, I was required to give a statement to the Police. PS 1380 Marianne recorded the questions of Police Chief Inspector Jeeavoo and my answers thereto.
- Save and except that CI Jeeavoo did put the charge to me, he did not ask me one single question concerning the circumstances in which I came to be in possession of the exhibits, which the Police had seized on 13 February 2015 at my residence.
- The charge was eventually put to me in the following terms: "On 27 December 2014, one day after termination you left the bank with a safe and a number of cartoon boxes which the bank has ground to believe that they contain documents and files pertaining to the Bank of Mauritius and same were secured at your place on 13.02.2015 alongside with a certain amounts of foreign currency amount, to more than one million rupees, what do you have to say?" (sic)
- In response to the said charge, I explained to the Police how I came into possession of the exhibits seized and referred to a number of documents. I further explained to the Police that Mr Ramtohul, HCS of the BOM, had been in communication with me until the eve of my arrest and that arrangements were being made for the return of the documents, which had been seized from my residence.
- I state that any reasonably fair minded police investigator ought, in light of the said explanations, to have been convinced that the said exhibits were lawfully in my possession and that Mr Ramtohul, HCS of BOM, had acted in utter bad faith in making the declaration.
- At around 19h30, shortly after I had signed my statement, CI Jeeavoo informed me that I would be detained for the night pending the lodging of a provisional charge before the Bail and Remand Court on the next day, that is Tuesday 17 February 2015, as it was public holiday.
- Despite my request and the insistence of my counsel, the Police refused to allow me sight of the certificate, which a police officer not below the rank of Assistant Superintendent had to put up, pursuant to s. 12(1) of the Bail Act, setting out the reasons why I could not be released on parole.

17. On Tuesday 17 February, 2015, the Police lodged three provisional charges against me:

- a. Cause No. 203/15 - Money Laundering for having allegedly been "*criminally and unlawfully in possession of property which was, or in whole, or in part directly or indirectly represent the proceed of a crime to wit:- the following currencies:- 2,845 pound sterling, 3,340 USD, 8,450 South African rand, 3,330 Euro, 450 AUD, 13,600 RS, Indian rupees 220, dihrans 165, swiss francs 600, Malaysian ringitt 115, 736 singapore dollars, 2,000 comorian francs, total sum amounting Rs1,000,000, where he has reasonable grounds for suspecting that the property was derived in whole or in part, directly or indirectly from a crime to wit:- Larceny by person in receipt of wages to the prejudice of the Bank of Mauritius.*"
- b. Cause No. 204/15 - Possession of Articles Obtained by Means of A Crime for having allegedly been "*criminally and without sufficient excuse or justification, found to have in his possession certain articles, to wit:- twelve cartons containing 183 confidential files pertaining to the Bank of Mauritius which had been carried off, abstracted or obtained by means of a crime, to wit:- Larceny by person on wages to the prejudice of the Bank of Mauritius.*"
- c. Cause No. 205/15 - Larceny by Person on Wages for having allegedly "*whilst being a person in service receiving wages, criminally and fraudulently abstract, steal, taken and carry away articles not belonging to himself, to wit:- several confidential files relating to matters of the Bank of Mauritius, to the prejudice of his master, the Republic of Mauritius. Value Stolen unknown.*"

18. The Police objected to my motion for bail and during the hearing held on Tuesday 17 February 2015, the police mentioned twice the possibility that the case against me, or I myself, may be linked to the "*high-profile case against Dr Navin Ramgoolam,*" where a large sum of money, in both local and foreign currencies, some in the original BOM packaging, was found at his residence. I categorically stated that I had absolutely nothing to do with this case.

19. Despite police objections, I was released on bail on the same day.

20. On 23 February 2015, the Police sought and obtained a new warrant (the "second warrant") (Cause No. 33/2015) this time to search the "*dwelling house, and premises of Mr and Mrs Rundayeersingh BHEENICK and family residing at Le Ravin A-2 Morcellement Bagatelle Moka*" for "*documents, files pertaining to the Bank of Mauritius and money*" - A copy of the said warrant is hereto annexed and marked ANNEX I.

21. Although I do not reside at the aforesaid address and the premises do not belong to me, but to Société Civile Waterzedge, a Société whose Sociétaires are my wife and my daughter respectively, I nevertheless accompanied the Police for the execution of the warrant. Nothing incriminating was found.



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22. In relation to the Provisional Charge bearing Cause No. 203/15 (Money Laundering), I state the following:

- (a) The monies secured at my place used to be kept in one of the drawers of the Kumahira cabinet lying in the small room adjoining the Governor's office at BOM;
- (b) I did not keep a running tally of this money but they were organized in different pouches by currency;
- (c) They were placed, where the police found them, in my residence when the Kumahira cabinet was emptied of its contents for return to BOM on 09 February 2015;
- (d) The monies are not proceeds of crime. They belong to me, and not to BOM, as they were provided to me by BOM by way of *per diem* allowances. Indeed, some of the pouches containing them still had the last receipt indicating the BOM officer who changed the money and the moneychanger where he did it;
- (e) The origin of the major foreign currencies can be ascertained from BOM. The less-traded currencies were cashed against US Dollars on arrival at the foreign airport concerned; and
- (f) I was in possession of an important amount of US Dollars as (i) I had to shorten my last mission to attend the Annual IMF/World Bank meetings because of a personal family tragedy; and (ii) I could not proceed to the Mayo Clinic as intended at the end of the meetings for advanced medical tests and the cash sums expected to be disbursed remain unused.

23. In relation to Provisional Charges bearing Cause No. 204/15 (Possession of Articles Obtained by Means of A Crime) & Cause No. 205/15 (Larceny by Person), I am advised and verily believe that the lodging of two separate information for alternate counts of larceny and possession of stolen articles constitute an abuse by the Police. I further state in that connection that:

- (a) On Monday 22 December 2014, during a lunch meeting, the Vice Prime Minister and Minister of Finance had the courtesy of informing me that the Government would appoint my successor shortly although he could not tell me who had been approached. He did however specify that it would not be any of the individuals being mentioned in the press at the time;
- (b) The Minister of Finance indicated that the First Deputy Governor, who was then on a month-to-month contract based on "*tracite reconduction,*" was also going to be replaced as well as the Second Deputy;
- (c) We did discuss the required handing over period, which I indicated should be of at least 6 months. He replied that he could not envisage a 6- or even a 3-months period

for the handing over and his parting words were: "Je vais voir cela avec Aneerood", or words to that effect;

- (d) I was informed of the termination of my appointment as Governor of BOM by the President of the Republic "with immediate effect" by letter dated 26th December 2014, a Friday, and which was received the same day in the afternoon - A copy of the said letter is hereto annexed and marked ANNEX 2;
- (e) I immediately replied to the President requesting instructions/clarifications on issues, which had not been mentioned in his letter, including (i) "modalities of a handing over protocol"; and (ii) a delay of 14 working days "to organise the vacation of my office"; A copy of the said warrant is hereto annexed and marked ANNEX 2 (a).
- (f) There was no other authority apart from the President that I could legitimately approach under the Bank of Mauritius Act, as despite the termination of my appointment, I remain bound by the Oath of Confidentiality, which I took when I assumed office as Governor and I simply could not vacate my office by just walking out of the premises. I was fully expecting the matter of the timing of vacation of office to be settled once I received a reply from the Office of the President and I was also expecting that I would be informed of the identity of my successor as there were some issues that I could only discuss with the latter.
- (g) In the absence of a reply, I went to BOM on Saturday 27, Sunday 28 and Monday 29 December 2014 to organise the vacation of my office in order to make way for the as-then yet to be appointed Governor. I did not handle any official business outstanding on my desk, if only to return files and papers awaiting my attention or place them in the out tray;
- (h) Over my mandate, I had accumulated a mass of working papers and reading materials, which were piled on tables and shelves and bulging in the built-in cupboards, cabinets, and desk drawers. There was no time to go through these papers one by one and there was no senior officer designated to take over from me as an interim measure while awaiting the formal appointment of a new Governor;
- (i) With the help of the Senior Confidential Secretary, the senior attendant attached to the office of the Governor, and others roped in to give a hand, I decided to pack all papers in my custody and send them to my premises where they could await a handing-over and this would also give me more time to retrieve my personal papers without the tremendous pressure on us over the weekend;
- (j) Most, if not all, the documents in my office pertain to my work as Governor. A large collection of my own documentation packs for the various meetings of the Board of Directors and the Monetary Policy Committee ("MPC") were held elsewhere on the same floor;




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- (k) I however did not have in my custody any "Bank File". BOM official files are held by the BOM registry and by operating divisions, and not in the Governor's office. As each operating division and, in some cases, operating units within those divisions, have their own file colour code, in addition to their file identification registry number, the concept of red files prevailing in the civil service has no ready applicability in BOM. I did not pack or request anybody to pack any "Bank File" whilst I was clearing my physical office;
- (l) I had managed to complete most of the task by Sunday evening. The HCS of the BOM, Mr Ramtohol, who had helped to mobilise staff for the packing exercise, was sitting in the office at times, keeping an eye on the proceedings. I have reason to believe that the First Deputy Governor, who did come to the office that Saturday, was watching the transfer on the security cameras, which cover the entire BOM building;
- (m) Again, as there was no time for me personally to sift through its contents, I raised with the HCS the issue of buying the Kumahira filing cabinet, which was choc-a-bloc with a mixture of personal and confidential papers and which also served as the repository for my own monies, especially various foreign currencies;
- (n) The HCS agreed to sell this cabinet to me, saying that the price would be communicated subsequently. He arranged delivery of the filing cabinet and the documents at my residence in two separate shipments, as far as I remember. There was a large number of people involved in the packing and transfer exercise;
- (o) By email, dated 31st December 2014, the HCS quoted the prices at which BOM was willing to sell me the following BOM property, which was in my possession at the time of my departure: (i) the official car, (ii) the Kumahira steel filing cabinet, which he described as "safe" (iii) the laptop, (iv) the Ipad, (v) the Iphone 5, and (vi) the Samsung Galaxy 3. All these items were for my personal use as Governor - A copy of the said e-mail (and its attachment) is hereto annexed and marked ANNEX 3;
- (p) By letter dated 28 January 2015, the HCS informed that BOM was no longer willing to sell the aforesaid filing cabinet - A copy of the said letter is hereto annexed and marked ANNEX 4;
- (q) By letter dated 4 February 2015, from its Secretary, BOM requested me to return any property/files that I may be holding by 10 February 2015. The Secretary made specific reference to MPC files, although she has no authority to recover MPC files. There is actually a protocol of sorts for retrieving MPC and Board files periodically from Board Directors and MPC members. Until so retrieved, they are deemed to be in possession of the parties to whom they were issued in the first place - A copy of the said letter is hereto annexed and marked ANNEX 5;
- (r) On receipt of this letter, it became apparent that there was not going to be any formal handing over, as I had requested. I therefore started to go through the Kumahira

cabinet and the boxes of documents to retrieve what were my personal possessions (like the foreign currencies) and my personal papers;

- (s) BOM arranged to collect the Kumahira cabinet, together with 3 boxes of papers and files on 09 February 2015;
- (t) On Tuesday 10 February 2015, I replied to the letter of BOM Secretary, with Mr Ramtohol in copy, saying that the process of returning files/property had started the day before and would need more time to be completed - A copy of the said reply is hereto annexed and marked ANNEX 6;
- (u) On Wednesday 11 February 2015, I replied to Mr Ramtohol's e-mail of 31 December 2014 (Annex 3 above) - A copy of the said e-mail is hereto annexed and marked ANNEX 7.
- (v) On Thursday 12 February 2015, Mr Ramtohol wrote to me inviting me to inventory the contents of the cabinet at BOM on Friday 13 February 2015 - A copy of the e-mail containing the said letter is hereto annexed and marked ANNEX 8;
- (w) On Thursday 12 February 2015, I replied to Mr Ramtohol, with copy to the BOM Secretary and the two Deputy Governors, requesting him to collect the remaining boxes from my residence, and suggesting that it would be more practical to have an inventory exercise after this had been done - A copy of the e-mail containing the said letter is hereto annexed and marked ANNEX 9;
- (x) At the time the CCID officers landed at my residence on Friday 13 February 2015, the boxes of papers and files were lying on a staircase landing and in a corridor upstairs, ready for collection by the BOM. Instead it was the CCID officers, which took them away, including nearly 150 Board and MPC files and a dozen sensitive files, which I considered had to be handed over to President in person because I felt that it would not be in the interest of the BOM should my successor, whose identity had, by then, been disclosed, take possession of the said files.
- (y) All files found at my place were handled by me in the lawful exercise of the responsibilities entrusted upon me under the Bank of Mauritius Act. No breach of confidentiality has occurred whilst these files were under my control.
24. In relation to the suggestion that my case is linked with that of the former Prime Minister, I state that the BOM, under my stewardship, did not have any banking relations with Dr Navin Ramgoolam and did not provide him with any currencies, local or foreign. I have no personal familiarity with the detailed intricacies of the processes and procedures in place in the Banking and Currency Division, which will, I am sure, be able to trace the commercial bank(s), which handled the monies found in the original BOM packaging if the serial numbers of the notes are provided to them.
25. As the former Governor of a central bank that had an outstanding issue of nearly MRU

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(S. GONDRE)
Chief Court Officer/Clerk

26,000,000,000 at the material time, in notes and coin, I could hardly be shocked at a cash treasure trove of MRU 250 million. In fact, I am on record as having said so. I am also on record as having expressed my puzzlement at rising currency in circulation in the country when both theory and the experience of other upper middle-income countries indicated that the opposite should have been the case. The find of Rs 250 million was unusual, but certainly not shocking.

26. By letter, dated 23 February 2015, my counsel, Mr Hervé Duval, requested ACP Heman Jangi, as Officer in Charge of CCID, to disclose to me the nature of the allegations and/or information on which his officers relied to apply for a search warrant in relation to my residential premises on Friday 13 February 2015 and to arrest me - A copy of the letter is hereto annexed and marked ANNEX 10.
27. By letter, dated 02 March 2015, but which reached my counsel on 11 March 2015, ACP Heman Jangi informed him that his request could not be entertained - A copy of the letter is hereto annexed and marked ANNEX 11.
28. On 17 March 2015 and 23 March 2015 respectively, my other counsel, Me Z Jaunbaccus applied to the Port Louis and Moka District Courts respectively for variation of the Prohibition Orders so that I may travel to Washington DC, United States of America, to attend the African Public Service Forum & Awards on 18 April 2015 to receive an award as "Outstanding Bank Governor of the Year 2014" as well as a trophy from the State of Georgia.
29. Shortly after the application to the District Court of Port Louis, CI Jeeavoo informed Me Jaunbaccus that I was expected at the CCID on Monday 23 March 2015 for further questioning.
30. By letter dated 20 March 2015, Me Hervé Duval, replied to ACP Heman Jangi:
- (a) Expressing his surprise and dismay at the stand of the Police;
 - (b) Stating that I was left with no alternative but to take such steps as I may be advised to enforce my constitutional rights and that a notice would be served shortly on the Police inviting it to reconsider its stand; and
 - (c) Informing the CCID that I had to attend Court on Monday 23 March 2015 in relation to the applications for variation orders and requested that the further statement be postponed until such time as the issues of disclosure are resolved.
- A copy of the letter is hereto annexed and marked ANNEX 12.
31. ACP Heman Jangi did reconsider his stand and consequently:
- (a) I was able to view the declaration, which Mr Ramtohol, ICS of the BOM, gave to the Police on 12 February 2015 at 12:40; and

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(b) provided with a copy of my statement recorded on 16 February 2015;

32. The CCID however refused, without any justification, to provide me copies of the entries I was made to sign on 13 and 16 February 2015 respectively and referred me to the Registry of the District Court of Port Louis (South) for a copy of the Search Warrant executed on 13 February 2015.
33. It is only on Wednesday 27 May 2015 that my counsel was able to secure a copy of the first warrant, dated 13 February 2015, and referred to in paragraph 2 above- A copy of the said Warrant is hereto annexed and marked ANNEX 13.
34. I am advised and verily believe that the power to issue search warrants is pursuant to section 36 of the District and Intermediate Courts (Criminal Jurisdiction) Act, which provides that "*where a credible witness proves on oath before a Magistrate, reasonable cause to suspect that any person has in his possession any property, which has been obtained by means of a crime or misdemeanor or any arm or instrument used in the commission of a crime or misdemeanor, the Magistrate may grant a warrant to search for such property, arm or instrument as in the case of stolen goods.*"
35. I am also advised and verily believe that given that an application for a search warrant is done ex-parte, the police are bound to make a full and frank disclosure to enable the Magistrate to discharge his statutory discretion in a judicial manner.
36. I aver that the first warrant has been obtained illegally and in breach of section 36 of the District and Intermediate Courts (Criminal Jurisdiction) Act and of my constitutional rights to privacy because:
- The Police Officers merely made mention of an offence, which had been allegedly committed under section 40 of the Criminal Code without giving any other particulars of the alleged offence;
 - The information under oath neither made any mention of the date of the alleged offence nor did it contain any material, which tended to prove the reasonableness of a suspicion that the property had been obtained by means of a crime or misdemeanour;
 - The said warrant was drafted in general terms and allowed the police to seize any "*documents, files and money*", which they could find, whereas the declaration of Mr J K Ramtohul referred to "*files*" only;
 - The Police Officer did not put before the Magistrate enough information in order to allow him to exercise his discretion in favour of granting the warrant; and
 - There is no record to indicate that the Police Officer gave any additional

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information to the Magistrate other than the one sworn under oath.

37. I further aver that in fact and in truth there was no reasonable cause for the Police to seek such a warrant given the tenor of the declaration made by the HCS of the BOM, on behalf of the latter; The latter merely stated that "*the Bank has grounds to believe that I may have misappropriated files of the Bank, especially after termination of (my) office*" without giving to the Police any particulars of the files which I might have misappropriated let alone any justification as to why I could not, as former Governor of the BOM be in possession of "*files of the Bank*" after having admitted that the Bank itself had arranged for truck loads of files to be delivered to my residence.
38. The Police acted blindly on the aforesaid statement without even attempting to conduct a preliminary inquiry to ascertain whether there was indeed reasonable cause to suspect that I may be in possession of stolen property. I note that there is in fact no declaration of larceny to the prejudice of the BOM.
39. I stand advised and verily believe that the Police have obtained access to documents of the BOM on the basis of an illegal search warrant to which it would not otherwise have had access without being able to satisfy a Judge in Chambers or a competent Court that the circumstances warranted the lifting of the sacrosanct bank confidentiality.
40. I state that for my part I remain bound by the Oath of Confidentiality that I took upon my appointment as Governor.
41. For the above reasons I do not propose to give any further statement to the Police in relation to the matters herein set out and I have already stated everything that I am at liberty to state in relation to such matters.
42. I aver that the decision to arrest and detain me was an abuse of the powers of the Police under the Police Act and Bail Act for the following reasons:
- The Police could not have entertained any reasonable suspicion in order to arrest me;
 - Upon seizing documents pursuant to the two search warrants described above, the Police did not deem it necessary to inquire into the circumstances in which I came into possession of the exhibits seized, despite the fact that they were fully aware of me being, until recently, the former Governor of the BOM;
 - At no point, before my arrest, did the Police deem it fit to inform me of the reasons for the said arrest; and
 - Despite my request and the insistence of my counsel Hervé Duval, the Police refused to allow me sight of the certificate, which a police officer not below the rank of Assistant Superintendent had to put up, pursuant to s. 12(1) of the Bail Act, setting out the reasons why I could not be released on parole.

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43. I verily believe that, in fact, my premises were searched and I was arrested because of my perceived proximity with the former Prime Minister and the wide publicity given by media, on or around 9 February 2015, to my statements relating to the case of the former Prime Minister.

44. I state that the police clearly acted out of a political motivation and have, by their acts and doings, flouted my constitutional rights as a citizen.

45. There are persistent rumours that I will soon be arrested anew in relation to my alleged involvement, as Governor of BOM, in what had been termed by the Media as the Bramer Banking Corporation scandal. I firmly believe that the Police will continue to thwart my constitutional rights.

46. I reserve all my rights to seek redress against the State and the individual police officers involved in the matters referred to in the present affidavit.

Solemnly affirmed by the above named Deponent
at Chambers, Supreme Court House
this 29th day of May 2015

[Signature]

Drawn up by me

[Signature]
B. Seyraj
Attorney at Law

Before me

[Signature]
(S. GOKUL)
Chief Court Officer/Courthouse

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