



Madras HC allows petitions challenging ban on online rummy; Amendment to TN Gaming Act  
"unconstitutional"

Madras HC allowed a petition that has challenged the amendment to Tamil Nadu Gaming Act, contending that the new Sec.3-A introduced bans 'wagering' or 'betting' in cyberspace by playing "rummy, poker or any other game".

The Petitioner, a company operating online gaming platforms offering the game of "rummy" to its users, submits that the amended Sec. 11 of the TN Gaming Act specifies that "games of mere skill" are exempted from banning u/s 3-A. The game of 'rummy' is a "game of mere skill" which thus stands protected u/s 11.

Petition attacks the Ordinance, as ultra vires Articles 14 and 19(1)(g) of the Constitution of India, and also claims that there is an inherent contradiction in the Ordinance which arises from the fact that the provision overlooks the fact and settled legal position that rummy is a game of mere skill and can't fundamentally give rise to 'wagering' or 'betting'.

Readers may note that Supreme Court of India defines "mere skill" to mean predominance of skill, meaning the skill element should outweigh chance. According to the Supreme Court, games of skill do not amount to gambling and can be considered as commercial activities.

On the other hand, the TN Govt. has denied, stating that playing a game like rummy, poker, etc. online, for money or stakes are addictive in nature, have developed manifold, and as a result innocent people get cheated and incidents of suicides are reported. Govt. has further submitted that fundamental rights conferred under Article 19 of the Constitution are not absolute but are subject to reasonable restrictions imposed by the Govt.

*Petitioners' submissions:*

- The Ordinance is likely to adversely affect the Petitioners' fundamental right to carry out the business of providing a "game of skill" to its users
- The online rummy games offered on Petitioner company's platforms fall within the purview of "games of skill" and is a 'business' which stands protected under Art. 19(1)(g) of the Constitution of India. No 'betting' or 'wagering' whatsoever occurs on these platforms, on the outcome of the online rummy games played between its customers.
- The Petitioners have implemented gaming processes and measures that ensure fairness and unbiased gameplay on the platform, in accordance with internationally recognized standards. The game functions through a software developed by the Petitioners, which can't be modified or tampered with at any time.
- Further, every player on the platform is a human being, dependent on actual skills in order to play and complete, to ensure which, a detailed KYC process is conducted on every user of the platform before they are permitted to play. In this manner, the Petitioners verify players' identity and also ensure that underage players/minors are not permitted to use the platform.
- The Petitioner company is also a member of the All India Gaming Federation and adheres to the "code of conduct" for Online Rummy Operators issued by the AIGF, which lays detailed obligations on all members w.r.t. platform security, responsible gaming measures, transparency and disclosures and financial integrity.



- Petitioners argued that a competition such as this game, wherein success depends to a substantial degree upon the exercise of skill is recognized as a “game of skill”, and as such can’t be said to constitute gambling. “Games of skill” are treated as business activities and stand protected under Article 19(i)(g) of the Constitution of India.
- Rummy is a game of skill when played online or offline, even when played for stakes. Petitioners thus pleaded that Sec. 3-A must be read down in such a manner that the said provision doesn’t apply to the game of rummy, including online rummy, inasmuch as both qualify as “Games of mere skill”, which stand protected by Sec. 11 of the TN Gaming Act.
- Petitioners is alleging that Sec. 3-A is ultra vires the Constitution of India, and also is an unconstitutional attempt to overrule settled judicial precedents.

Petitioners have thus sought that they have a strong prima facie case in their favour, and any coercive action by the Respondents on the basis of the Ordinance would cause irreparable harm and prejudice to Petitioners’ business. Petitioners prayed that the Court grant an interim injunction restraining the Respondents from taking any coercive steps against the Petitioners in pursuance of the impugned

## Ordinance.

### Respondents’ arguments:

- Playing a game like rummy, poker, etc. online, for money or stakes, which are addictive in nature, have developed manifold, and as a result innocent people get cheated and incidents of suicides are reported.
- Apart from various offences resulting from such addiction, and in order to protect the innocents from the evils of online gaming, and on this Court’s advise, this issue was taken up for consideration, and it has been decided to ban wagering or betting in cyber space by suitably amending the relevant Acts, and which is why the Govt. has taken a policy decision to amend the relevant Acts, and accordingly, the impugned Ordinance has been promulgated.
- Fundamental rights conferred under Article 19 of the constitution are not absolute but are subject to reasonable restrictions imposed by the Govt. Playing online games including Rummy by betting or wagering is prohibited.
- The State Govt. has exclusive power to make laws on Entry 34 in List-II of the Seventh Schedule to the Indian Constitution, which deals with “Betting and gambling”, and the Ordinance of the Govt. is in consonance with the provisions of the Constitution of India.
- According to the Ordinance, playing Rummy with stakes in a common gaming house and cyberspace is only prohibited which is punishable, and the same is not contrary to Apex Court’s ratios in this regard.
- Respondents submitted that the Apex Court has, in the State of Andhra Pradesh vs. K. Sathyanarayana and Ors. while dealing with the case under Hyderabad Gambling Act has held that if there is evidence of gambling in some other way or that the owner of the house or club is making a profit or gain from the game of rummy or any other game played for stakes, the offence may be brought home.
- Gambling can’t be considered as trade or business, and the Petitioners thus have no fundamental right to do such business. The Petitioners thus cannot seek protection under Art. 19(1) of the Constitution of India.

**Therefore, Respondents have claimed that the Writ Petition be dismissed as devoid of merits.**