



Karnataka High Court on Online Gaming

For Prelims: Online Gaming, Gambling, Karnataka Police (Amendment) Act, 2021, Game of Skill, Game of Chance, Lottery, Betting

For Mains: Judgements & Cases, Online Gaming and its Impact, Laws related to Gambling, Betting and Lottery

Why in News?

Recently, the Karnataka High Court delivered a judgement striking down major portions of the **Karnataka Police (Amendment) Act, 2021** which banned online gambling and skill-based gaming platforms.

- Currently, online gaming falls in a regulatory grey area and **there is no comprehensive legislation with respect to its legality.**

What was the High Court's Ruling?

- The Karnataka High Court struck down the amendments to the Karnataka Police Act on three major grounds:
 - **Violation of fundamental rights** of trade and commerce ([Article 19](#)), liberty and privacy ([Article 21](#)), speech and expression (Article 19).
 - Being manifestly arbitrary and irrational insofar as **it did not distinguish between two different categories of games**, i.e. games of skill and chance.
 - A **“game of skill”** is based mainly on the mental or physical level of expertise of a player, rather than a chance.
 - A **“game of chance”** however is determined mainly by a random factor of any type. In games of chance, the usage of skill is present but a higher level of chance determines success.
 - **Games based on skills are allowed in most parts of the country**, while **games of chance** are categorised under gambling and are **prohibited in most parts of the country**. As **betting and gambling is a state subject**, different states have their own legislation.
 - **Lack of legislative competence of State legislatures** to enact laws on online skill-based games.
- The court also **held that the State government provided no evidence or data on whether a sweeping ban was justified and neither constituted a committee of experts** to study the issue.
- The court also **held that playing online games could help in building the character of an individual and enjoying online gaming could also fall within the contours of freedom of expression** and right to liberty and privacy guaranteed under the constitution.
- The court also opined that **regulation of online games may be a better and proportionate solution rather than an outright ban**, and left it open for the State government to come up with a new legislation dealing with betting and gambling in accordance with the provisions of the constitution.

What was the Karnataka Police (Amendment) Act, 2021?

- The law was introduced by the Karnataka government to **ban online gambling and skill-based gaming platforms.**
- The games banned were games that **involved any wagering or risking of money** on an uncertain event for example online rummy, poker and fantasy sports.

Which are the Other States Where Such Laws Were Struck Down?

- Apart from Karnataka, a similar law introduced by the **Tamil Nadu government was struck down by the Madras High Court in August 2021.**
- In September 2021, the **Kerala High Court had also quashed a notification issued by the State government** specifically banning the game of online rummy when played for stakes.

Why are States Trying to Ban Online Gaming?

- Many social activists, government officials and those in law enforcement believe that **online games like rummy and poker are addictive in nature**, and when played with monetary stakes leads to depression, mounting debts and suicides.
 - `Reportedly, there have been a few instances where **youngsters, faced with mounting debts due to losses** in online games have committed other crimes like theft and murder.
 - Earlier, the [World Health Organisation \(WHO\)](#) had announced a plan to include **“gaming disorder” as a mental health condition.**
- Online games are **susceptible to manipulation by the websites operating such games** and that there is a possibility that users are not playing such games against other players, but against automatic machines or ‘bots’, wherein **there is no fair opportunity for an ordinary user to win the game.**

What are the Negative Consequences of Banning Online Gaming?

- An outright ban may not entirely curtail the playing of such online games, with or without stakes.
 - **Telangana, which was the first State to ban online games for stakes in 2017** has seen a **spurt of illegal or underground online gambling apps.**
 - Most of which **originate from China or other foreign countries**, and accept payments from players through dummy companies or hawala channels.
 - Both the [Enforcement Directorate \(ED\)](#) and local cyber crime authorities have tried to crack down on such apps but with limited success.
- Shifting of users to grey or illegal offshore online gaming apps not only results in **loss of tax revenue for the State and job opportunities** for locals, but results in **users being unable to avail remedies for any unfair behaviour** or refusal to pay out winnings.

What are the Central Laws Related to Lottery, Gambling and Betting?

- **The Lotteries Regulation Act, 1998:**
 - Lottery is considered **legal in India.** Lottery should be organised by the state government and the place of Draw should be in that particular state.
- **Indian Penal Code, 1860:**
 - The code has provisions for punishing anyone who to the annoyance of others does any obscene act in a public place or sings, recites or utters any obscene song, ballad or words, in or near any public place.
 - These provisions of the IPC may be attracted if any obscene matter is used for the purpose of advertising betting and gambling activities.
- **Prize Competitions Act, 1955:**
 - It defines Prize in Competitions.
- [Foreign Exchange Management Act, 1999:](#)
 - Remittance of the income generated from lottery winning, racing/riding is prohibited under this Act.
- [Information Technology Rules, 2011:](#)

- Under these rules, any internet service provider, network service provider or any search engine will not host any such content which directly or indirectly supports Gambling.
- **Income Tax Act, 1961:**
 - Current taxation policy in India covers all types of Gambling industry directly and indirectly. Thus, it can be said that all regulated and legalised Gambling is supported in the **Gross Domestic Product (GDP)** of India.

Way Forward

- Instead of a complete ban, **one could look at licensing and regulating the industry** with various checks and balances such as:
 - Diligent KYC and anti-money laundering processes.
 - Barring minors from accessing real money games.
 - Placing weekly or monthly limits on the money that can be staked or time that can be spent.
 - Counselling for addictive players and allowing self-exclusion of such players etc.
- A **Gaming Authority at the central level should be created**. It could be made responsible for the online gaming industry, monitoring its operations, preventing societal issues, suitably classifying games of skill or chance, overseeing consumer protection, and combatting illegality and crime.
- More and more youngsters are getting hooked to online games. In light of this, **the Online gaming industry needs to be regulated in India**. Moreover, regulation of online gaming will not only open up economic opportunities but also address its social costs.

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