

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2025

PRONOUNCED ON : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.Nos.6784, 6794, 6799, 6970, 8832 and 13158 of 2025

W.P.Nos.6784 of 2025:

1. Play Games 24x7 Private Limited
A Company Incorporated Under The
Companies Act 1956,
Represented By Its Authorized
Representative Mr.Sameer Chugh,
Having Its Registered Office at 5th Floor,
Central Wing(B),
Tower -4, Nesco IT Park,
Nesco Centre,
Western Express Highway,
Goregaon (E), Mumbai 400 063

2.Bhavin Pandya
S/o.Shri Kaushik Pandya,
Through His Power Of Attorney Holder,
Mr.Sameer Chugh,
5th Floor, Central Wing(B),
Tower -4, Nesco IT Park, Nesco Centre,
Western Express Highway,
Goregaon (E), Mumbai 400063.

... Petitioners

Vs.

1. State Of Tamil Nadu
Through Chief Secretary,
Secretariat, Fort St. George,

Chennai 600001.

2.State Of Tamil Nadu
Department Of Home,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

3.State Of Tamil Nadu
Department Of Law, Through Principal
Secretary, Secretariat, Fort St.
George, Chennai 600001.

4.Director General Of Police
State Of Tamil Nadu,
Office Of The Director General,
Kamarajar Salai,
Chennai 600004.

5.Tamil Nadu Online Gaming Authority
1st Floor, Urban Administrative
Building
75 Santhome High Road, Mrc Nagar,
Raja Annamalai Puram,
Chennai 600028.

6.Union Of India
Through Ministry Of Electronics And
Information Technology,
Electronics Niketan, 6 CGO Complex,
Lodhi Road, New Delhi 110003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, declaring Section 5(2) read with Section 14(1)(c) of Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 along with Regulation 4(iii) and Regulation (viii) of Tamil Nadu Online Gaming Authority (Real Money Games) Regulation, 2025 dated February 12, 2025 as arbitrary, void, illegal and unconstitutional, in so far as its application to

online games of skill played with money or other stakes.

For Petitioners : Mr.Mukul Rohatgi,
Senior Advocate
for Mr.Akhil Anand
Mr.R.Bharadwajaramasubramaniam
Mr.R.S.Diwaagar

For Respondents : Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1-3
and
Mr.E.Raj Thilak
Additional Public Prosecutor for R4
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R5
Mr.AR.L.Sundaresan
Additional Solicitor General of India
asst by
Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
for R6

W.P.No.6794 of 2025:

1. Head Digital Works Private Limited
Regd. Office at
1st Floor, Express Building, 9-10,
Bahadur Shah Zafar Marg,
New Delhi 110002.
Corp. Off At:
8th Floor, Atria Block, The-V,
Plot No.17
Software Units Layout,
Madhapur, Hyderabad,
Telangana 500081
Through Its Authorised Representative
Mr.Deepak Gullapalli,
Managing Director

2.Deepak Gullapalli
S/o.Shri Ram Prasad,
Head Digital Works Private Limited,
8th Floor, Atria Block, The-V,
Plot No.17 Software Units Layout,
Madhapur, Hyderabad,
Telangana 500081.

... Petitioners

Vs.

1. State Of Tamil Nadu
Through Chief Secretary,
Secretariat, Fort St. George,
Chennai 600001.

2.State Of Tamil Nadu
Department Of Home,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

3.State Of Tamil Nadu
Department Of Law,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

4.Director General Of Police
State Of Tamil Nadu,
Office Of The Director General,
Kamarajar Salai,
Chennai 600004.

5.Tamil Nadu Online Gaming Authority
1st Floor, Urban Administrative
Building
75 Santhome High Road, Mrc Nagar,
Raja Annamalai Puram,
Chennai 600028.

6.Union Of India
Through Ministry Of Electronics And
Information Technology,
Electronics Niketan, 6 CGO Complex,
Lodhi Road, New Delhi 110003.

... Respondents

PRAYER

Declaring Section 5(2) read with Section 14(1)(c) of Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 along with Regulation 4(iii) and Regulation (viii) of Tamil Nadu Online Gaming Authority (Real Money Games) Regulation, 2025 dated February 12, 2025 as arbitrary, void, illegal and unconstitutional, in so far as its application to online games of skill played with money or other stakes.

For Petitioner : Mr.Sajan Poovayya
Senior Advocate
for Mr.Akhil Anand
Mr.Vinod Kumar
Ms.Durga Bose Gandham

For Respondents : Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1-3
and
Mr.E.Raj Thilak
Additional Public Prosecutor for R4
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R5
Mr.AR.L.Sundaresan
Additional Solicitor General of India
asst by
Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
for R6

W.P.No.6799 of 2025:

1. Jungle Games India Private Limited
A Company Incorporated Under The
Companies Act, 1956
Represented By Its
Authorised Representative
Mr.Chiranjeevi Kothari,
Having Its Registered Office
at 14th Floor, Building No.5 Tower A,
DLF Cyber City, DLF Phase III,
Gurugram, Haryana 122002.

... Petitioners

Vs.

1. State Of Tamil Nadu
Through Chief Secretary,
Secretariat, Fort St. George,
Chennai 600001.

2.State Of Tamil Nadu
Department Of Home,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

3.State Of Tamil Nadu
Department Of Law,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

4.Director General Of Police
State Of Tamil Nadu,
Office Of The Director General,
Kamarajar Salai,
Chennai 600004.

5.Tamil Nadu Online Gaming Authority
1st Floor,

Urban Administrative Building
75 Santhome High Road, Mrc Nagar,
Raja Annamalai Puram,
Chennai 600028.

6.Union Of India
Through Ministry Of Electronics And
Information Technology,
Electronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi 110003.

... Respondents

PRAYER

Declaring Section 5 read with Sections 14 of Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 and Tamil Nadu Online Gaming Authority (Real Money Games) Regulation 2025 as ultra vires discriminatory, arbitrary, void illegal, and unconstitutional in so far as its application to online real money online games of skill i.e. online games of skills when played with money.

For Petitioner : Mr.C.Mani Shankar
Senior Advocate
for Mr.Akhil Anand
Mr.Vinod Kumar
M/s.Durga Bose Gandham

For Respondents : Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1-3
and
Mr.E.Raj Thilak
Additional Public Prosecutor for R4
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R5
Mr.AR.L.Sundaresan

Additional Solicitor General of India
asst by
Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
for R6

W.P.No.6970 of 2025:

1. Esport Players Welfare
Association
Represented By Its Director,
And Authorised Signatory Shivani
Jha, C 56 Jangpura Extension,
New Delhi 110 014.

Petitioner(s)

Vs

1. State Of Tamil Nadu
Department Of Home Prohibition
And Excise Department,
Through Prinicpal Secretary,
Secretariat Fort St George,
Chennai

2.Tamilnadu Online Gaming
Authority
Through Its Chariperson First
Floor, Urban Administrative
Buiding, 75 Santhome High
Road, Mrc Nagar,
Raja Annamalai Puram, Chennai

Respondent(s)

PRAYER

Nature of declaration or any other order or direction to declare the
impugned regulations being Tamilnadu online Gaming authority (Real

Money Games) Regulations, 2025 enacted by the second respondent as unconstitutional as the same is lacking legislative competence and/or encroaching on a field covered by the central legislation and/or being in violation of the constitution of India including the fundamental rights enshrined under Articles 14 and 19 and 21.

For Petitioner : Mr.Aryama Sundaram
Senior Advocate
and
Mr.Satish Parasaran
Senior Advocate
for Mr.Y.Sankeeth Vittal
Ms.Deepika Murali

For Respondents : Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R2

W.P.No.8832 of 2025:

1. P.Vikram Kumar
Having Its Add At New No. 14, Balaji
Nagar, 4th Street, Royapettah,
Chennai- 014, Tamil Nadu.

Petitioner(s)

Vs

1. The State Of Tamilnadu
Department Of Home, Prohibition
And Excise, Through Its Principal
Secretary, Secretariat, Fort St.
Georg, Chennai-09.

2.The Tamil Nadu Online Gaming
Authority
Through Its Chairperson, First
Floor, Urban Administrative
Building, 75, Santhome High Road,
Mrc Nagar, Raja Annamalai
Puram, Chennai, Tamil Nadu- 600
028.

Respondent(s)

PRAYER

To declare the impugned Regulations being Tamil Nadu Online Gaming Authority (Real Money Games), Regulations 2025 enacted by the Second respondent as unconstitutional as the same is lacking legislative competence and / or encroaching on a field covered by the central Legislation and / or being in violation of the constitution of India including the fundamental rights enshrined under Articles 14, 19 and 21.

For Petitioner : Mr.Sandeep Chilana
Mr.Adith Narayan Vijayaraghavan
Mr.Ajithkumar Pugazhenth

For Respondents : Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R2

W.P.No.13158 of 2025:

1. Winzo Ganes Private Limited
Rep. By Its Authorized Singatory,
Saumya Singh Rathore, Having Its
Registered Office At Suite No.006,

Ground Floor, Copia Corporate
Suites, Building No.9, Dda District
Centre, Josola, Jamia Nagar, South
Delhi, New Delhi-110 025

Petitioner(s)

Vs

1. State Of Tamil Nadu
Through Chief Secretary, Secretariat,
Fort St. George, Chennai-600 009

2.State Of Tamil Nadu
Through Department Of Home,
Secretariat, Fort St. George,
Chennai-600 009

3.State Of Tamil Nadu
Through Department Of Law, V

4.Director General Of Police
State Of Tamil Nadu, Office Of The
Director General Kamarajar Salai,
Chennai-600 004.

5.Tamil Nadu Online Gaming
Authority
1st Floor, Urban Administrative
Building, No.75, Mrc Nagar, Ra
Puram, Chennai-28.

6.Union Of India
Through The Ministry Of Electronics
And Information Technology,
Electronics Niketan, 6 Cgo Complex,
Lodhi Road, New Delhi 110 003.

Respondent(s)

PRAYER

a) Declaring that the Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 dated 07.02.2025 bearing G.O. (Ms) No.76 are ultra vires discriminatory, arbitrary void, illegal, and unconstitutional in so far as it application to online real money online games of skill i.e. online games of skills when played with money and

(b) To declare that the TNOGA has powers in relating to creating regulations in respect of regulating online games of skills being played within the state of Tamil Nadu and cannot create regulations in restriction of Article 19 of the Constitution of the online Gaming Intermediaries operating outside the state of Tamil Nadu.

For Petitioner

: Mr.Abhishek Malhotra
Senior Advocate
for
Mr.M.S.Bharath
Mr.Jacob Kurian

For Respondents

: Mr.P.S.Raman
Advocate General
asst by Mr.T.Chandrasekaran
Special Government Pleader
for R1 to R3
and
Mr.E.Raj Thilak
Additional Public Prosecutor for R4
Mr.Amit Anand Tiwari
Additional Advocate General
asst by
Mr.B.Arvind Srevatsa for R5
Mr.AR.L.Sundaresan
Additional Solicitor General of India
asst by
Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India
for R6

COMMON ORDER

S.M.SUBRAMANIAM, J.

1. The Writ Petitioners before us are online gaming companies, player associations and individual player. These Writ petitions have been filed with a **prayer** seeking a Writ of Declaration to declare Section 5 read with Section 14 of the Tamil Nadu Prohibition of Online Gaming and Regulation of Online Games Act, 2022 along with the Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 ('RMG Regulations') as unconstitutional in so far as its application to online games of skill played with money or other stakes.

PRELUDE:

2. The State of Tamil Nadu, in order to curb the ill effects of online gaming addiction amended the Tamil Nadu Gaming Act, 1930 by enacting The Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021. The amended statute prohibited all forms of games being conducted in cyberspace, irrespective of the game being a game of mere skill, if such game is played for a wager, bet, money or other stake.

3. The validity of the Act was challenged before this Hon'ble Court in ***Junglee Games India Private Limited vs. The State Of Tamil Nadu,***

2021¹. The Hon'ble Madras High Court struck down Part II of the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021, which banned wagering or betting in cyberspace, as ultra vires to the Constitution. However, the following observation was made by the Division Bench ;

"130. Accordingly, the impugned Part II of the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021 (Act 1 of 2021), which amends the Tamil Nadu Gaming Act, 1930, is declared to be ultra vires the Constitution in its entirety and struck down as a consequence. Nothing herein will prevent an appropriate legislation conforming to the constitutional sense of propriety being brought in the field of betting and gambling by the State"

4. Subsequently, the State Government enacted the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 (**hereinafter referred to as "The Act, 2022"**) on the recommendation of a Five Member Committee under the Chairmanship of retired Judge of this Hon'ble Court based on inputs received from seventeen stakeholders comprising of representatives from the online gaming industry, think tanks, political parties, players association and social activists on differentiation of

1 2021 SCC OnLine Mad. 2767

real money games and other forms of games, to provide age and money restrictions, to ban advertisements, to prevent money laundering and to provide grievance redressal mechanism.

5. The Act, 2022 was challenged by various Gaming platforms including the petitioners herein in ***All India Gaming Federation vs. State of Tamil Nadu & Others (2023)***² wherein this Hon'ble High Court upheld the validity of the Act while it struck down the Schedule which included Rummy and poker as games of chance. In the All India Gaming Federation Judgment (**hereinafter referred to as "AIGF 2023 Judgment"**), the Hon'ble Division Bench has upheld the validity of the Act, but has struck down the Schedule alone. As against this portion of the Order of the Hon'ble Division Bench, the State has filed SLP and the same is pending before the Hon'ble Supreme Court of India.

6. Section 3 of the Act, 2022 provides for establishment of an Expert Body known as the Tamil Nadu Online Gaming Authority. The Authority in exercise of the power conferred to it under Section 5 of the Act, notified the Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 (the impugned regulations).

² SCC OnLine Mad 6973

7. Mr.Mukul Rohatgi, learned Senior Advocate for learned counsels Mr.Akhil Anand, Mr.R.Bharadwajaramasubramaniam, Mr.R.S.Diwaagar are appearing on behalf of petitioners in W.P.No.6784 of 2025. Mr.Sajan Poovayya, learned Senior Advocate for learned counsels Mr.Akhil Anand, Mr.Vinod Kumar, Ms.Durga Bose Gandham are appearing on behalf of petitioners in W.P.No.6794 of 2025. Mr.C.Mani Shankar, learned Senior Advocate for learned counsels Mr.Akhil Anand, Mr.Vinod Kumar, Ms.Durga Bose Gandham are appearing on behalf of petitioner in W.P.No.6799 of 2025. Mr.Aryama Sundaram, learned Senior Advocate and Mr.Satish Parasaran, learned Senior Advocate for learned counsels Mr.Y.Sankeeth Vittal and Ms.Deepika Murali are appearing on behalf of petitioner in W.P.No.6970 of 2025. Mr.Sandeep Chilana, Mr.Adith Narayan Vijayaraghavan and Mr.Ajithkumar Pugazhenthil learned counsels are appearing on behalf of the petitioner in W.P.No.8832 of 2025. Mr.Abhishek Malhotra, learned Senior Advocate for learned counsels Mr.M.S.Bharath and Mr.Jacob Kurian are appearing on behalf of the petitioner in W.P.No.13158 of 2025.

8. Mr.P.S.Raman, learned Advocate General assisted by Mr.T.Chandrasekaran, learned Special Government Pleader appearing for respondents 1 to 3 in W.P.Nos.6784, 6794, 6799, 13158 of 2025 and

appearing for 1st respondent in W.P.Nos.6970 and 8832 of 2025. Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for 4th respondent in W.P.Nos.6784, 6794, 6799, 13158 of 2025. Mr.Amit Anand Tiwari, learned Additional Advocate General assisted by Mr.B.Arvind Srevatsa appearing for 5th respondent in W.P.Nos.6784, 6794, 6799, 13158 of 2025 and for 2nd respondent in W.P.Nos.6970 and 8832 of 2025. Mr.AR.L.Sundaresan, learned Additional Solicitor General of India assisted by Mr.R.Rajesh Vivekananthan, learned Deputy Solicitor General of India appearing for 6th respondent in W.P.Nos.6784, 6794, 6799, 13158 of 2025.

9. At the outset, it was brought to the attention of this Court that the validity of certain provisions in the Act impugned in the present writ petition already was upheld by the Division Bench of this Hon'ble High Court in **"AIGF 2023 Judgment"** cited *supra*, whereby the very same Petitioners in the present Writ Petition have assailed the constitutional validity of the Act, 2022. The Hon'ble Division Bench had elaborately examined both the aspects of legislative competence and validity of the Act, 2022 and has held as follows:

"122. In the light of the aforesaid discussion, we hold that the impugned Act, in its entirety, need not be held to be ultra vires. It is held that the State is competent to legislate to the extent of

prohibiting online gambling, i.e., games of chance, at the same time, it has got the authority to regulate online games of skill. The definition of "online gambling" under Section 2(i) of the impugned Act shall be read as restricted to "games of chance" and not games involving skill. Section 2 (I)(iv) of the impugned Act would not be entirely valid. The games of rummy and poker are games of card, but are games of skill. Section 2 (I)(iv) is being read down, to mean, it excludes games of skill viz., rummy and poker.

123. Having held that the State has got the authority to legislate on online games of chance, as gambling would be betting on the games of chance, it is not necessary to declare Sections 7, 8 and 9 of the impugned Act as ultra vires. As discussed above, it has been authoritatively held by the Apex Court in a catena of judgments, so also this Court that the games of rummy and poker are games of skill. The State has miserably failed to demonstrate that online games of rummy and poker are different and distinct from offline games of rummy and poker. The apprehension expressed by the State that bots may be used or the dealer (software) would know the cards are without any substantive material. In view thereof, the Schedule under Section 23, incorporating rummy and poker as games of chance, is set aside.

124. The State may make regulations as contemplated under Section 5 of the impugned Act, thereby providing reasonable regulations for the time limit, age restriction or such other restrictions in regard to playing of online games.

125. Section 10 of the impugned Act may not be declared as ultra vires as it will be necessary for the State to know about the online games providers operating within its State and that they are not indulging in any games of chance. If the State comes across the usage of bots or any dubious methods in the play of games of rummy and poker, it can take action and for that purpose also it will be necessary to uphold Section 10 of the impugned Act. The State may frame regulations as contemplated under Section 5 of the impugned Act.

126. In the light of the aforesaid, the writ petitions, as such, stand partly allowed. **The prayer to declare the entire impugned Act of 2022 as ultra vires is negated. The Schedule of the impugned Act, including the games of rummy and poker, are set aside. Sections 2(i) and 2(1) (iv) of the impugned Act shall be read as restricted to games of chance and not games involving skill, viz., rummy and poker. There will be no order as to costs. Consequently,**

W.M.P. Nos. 12944, 13271, 13272, 13398, 13399, 13400, 13403, 1405, 13406, 14202 and 1204 of 2023 are closed. W.M.P. Nos. 13269, 13397, 13402 and 14201 of 2023, filed to permit the petitioners to file a single writ petition are allowed and disposed of, as they have paid separate sets of court fee.”

10. Hence the issue contended before us has already been settled by the Hon'ble High Court, and the Division Bench of this Hon'ble Court has clearly upheld the power of the State Government under Section 5 of the Act, 2022 to make regulations regarding time limit, age restriction or such other restrictions with regard to playing of online games.

11. The Power of the State Government to regulate and the validity of Section 5 was discussed in the “**AIGF 2023 Judgment**” and the relevant portion is extracted below:

*“116. It is to be considered that the online games, in the instant case, are not available for persons/children below the age of 18 years. Online games can be played only by the persons who are 18 years and above i.e., major and not School children. **The apprehension raised by the learned Senior Counsel for the State was that there would be no methodology to verify the***

age of the person playing. The petitioners responded to it by suggesting that a person, before he enrolls to play, is required to submit his Aadhaar Card, photograph, KYC and other precautionary measures are taken to confirm that the person playing is 18 years old or more.

117. Another apprehension of the respondent was that the games are played 24 hours, thereby endangering the public and domestic health. As observed above, the concern expressed by the State about public health of its citizens is but natural. The State has to take care of the public health of its citizens. Section 5 of the impugned Act authorises the authority, by notification and with the previous approval of the Government, to make regulations to carry out the provisions of the Act namely, time limit, monetary limit, age restriction or such other restrictions in regard to playing of online games. ***The State certainly has the power to regulate online games of skill. It can control and regulate the games of skill. The State can provide for the time limit, that the game may not be played after a particular time and it would have the necessary infrastructure and expertise to take all the measures that the games would not be played within the State after a particular time. It can also regulate the age restriction and other***

aspects. The same would be within the competence of the State.

118. *The power to regulate games of skill lies with the State Legislature under Entry 26, List II of the Indian Constitution, viz., "Trade and Commerce". If that is the case, then the State certainly will have the right to regulate games, as is contemplated in Chapters IV and V of the impugned Act. Though the aspect of public welfare ought to be considered while legislating a particular subject matter, it is necessary to carve out the pragmatic regulatory measures, rather than imposing blanket ban.*

119. *In the case of R.M.D. Chamarbaugwala v. Union of India (supra), the Apex Court had observed that "while controlling and regulating would be requisite in the case of gambling, mere regulation would have been sufficient as regards competitions involving skill". The Preamble of the Act is also suggestive of the same. The Preamble of the Act states that "the Act to prohibit online gambling and to regulate online games in the State of Tamil Nadu". Certainly, online gambling can be prohibited by the State. The State has ample power to enact a legislation to prohibit online gambling and it has also the power to regulate online games of skill in the State of Tamil*

Nadu. In stead of resorting to regulating online games of skill, in this case, rummy and poker, the State has simply prohibited the said games. The same was in excess of its legislative competence.”

12. Hence the Hon'ble Division Bench of this Court in unequivocal terms has upheld the validity and the vires of Section 5 of the Act. The Regulations in essence flows from the directions embedded in the judgment referred above, affirming the power of the State Government to frame regulations under Section 5 of the Act. Hence the legislative competence of the State Government to regulate the online games of skill has been upheld. On this ground, it can be said that the present writ petitions are barred by *res judicata*.

13. The main challenge under the present writ petitions are to Section 5 and 14 of the Act, 2022 and the regulations that flow from it. Section 5 of the Act, 2022 deals with the Power to make regulations pertaining to Online gaming in the State of Tamil Nadu. Section 5 of the Act, 2022 is reproduced below:

“5. (1) The Authority may, by notification, with the previous approval of the Government, make regulations consistent with the provisions of this Act or the rules made thereunder, to carry out

the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for, -

(a) time limit, monetary limit, age restriction or such other restrictions in regard to playing of online games; and

(b) procedure to regulate its own functions.

14. This Section brings within its ambit all kinds of online games including online money game which is known as Online Real Money Game. Also the State has issued regulations pursuant to Section 5 that is Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 **(hereinafter referred to as “RMG Regulations”)**. And these regulations are specifically made to regulate only Online Real Money game and not Online games.

15. The primary contention of the Petitioners is that the impugned provisions of the Act, Sections 5 and 14 and the Regulations with respect to online real money games are bound to be struck down as it is beyond the legislative competence of the State Legislature.

16. It was contested that online real money games when conducted

through digital platforms, falls squarely within the ambit of Entry 31 of List I of the Seventh Schedule to the Constitution which pertains to “Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communications”. Regulation of internet based activity, such as online gaming including online real money games of skill offered by the Petitioners, lies within the exclusive legislative domain of the Union, and that the State legislature lacks competence to legislate on this subject.

17. Further, the Petitioners submit that the RMG Regulations are in direct derogation of the central legislation, particularly the Information Technology Act, 2000 ("IT Act") and the rules framed thereunder, including the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ('IT Rules'), as amended to include Rule 4A governing online gaming. The said central framework provides for a self-sufficient regulation for the online real money games including the standards of due diligence, grievance redressal mechanisms, and age-appropriate access, Self-Regulatory Bodies ("SRBs") for administering the same, etc.—all of which are intended to provide a harmonised national framework for online real money games of skill.

18. The Petitioners submit that both the impugned provisions of the

Act, 2022 i.e., Section 5 and 14 and the RMG Regulations qua the online real money games are liable to be struck down for being:

- (i) beyond the legislative competence of the State Legislature;
- (ii) violative of the Petitioners' statutory, constitutional, and fundamental rights including under Articles 14, 19(1)(g), and 21 of the Constitution of India and;
- (iii) in conflict with central laws, more specifically where the central laws are already framed and existing.

19. It is well established law that, Article 246 of the Constitution of India confers exclusive power on Parliament and the State Legislature to legislate with respect to the matters provided for in the Union List and the State List in Schedule VII respectively. With respect to the matters provided for in List III, namely, the Concurrent List, both Parliament and the State Legislatures possess the competency to enact laws.

20. The IT Rules, 2021 through its amendments notified on 06.04.2023 provided a regulatory framework for intermediaries including online gaming platforms. The petitioners state that this IT Amendment Rules, 2023, which governs online gaming intermediaries have been framed by the Union Government in exercise of its legislative power under Entry 31

of list I of the Seventh schedule of the constitution. This entry deals with Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication and also Entry 42 of List I which deals with Inter-State trade and commerce.

21. Whereas the State's power to frame the impugned regulation stems from Entry 6 of List II which more specifically deals with 'Public health and sanitation; hospitals and dispensaries' and Entry 26 of List II which deals with 'Trade and commerce within the State subject to the provisions of Entry 33 of List III.'

22. A bare perusal of these entries reveal that both the subject matters are not in conflict with each other. They thrive in their own separate domains. The Union and State Government have the power to enact laws in their own respective subject matter apart from the common pool as enabled in List III (Concurrent List).

23. This Court cannot hold that State is barred from enacting laws regulating online real money games. It is covered under the subject matter of public health and sanitation which comes under List II. It is a well known fact that so far as online real money games such as rummy and poker, it

has created public health risks in the State of Tamilnadu. This is elaborated in the expert committee reports, whereby these games have posed serious mental and physical health risks to the citizens in the State. It is a case of public health and the State has full competence to pass legislation to govern matters affecting public health.

24. Doctrine of repugnancy as pointed out in the submissions of the State Government is confined to List III of Seventh Schedule to the Constitution and the question of repugnancy does not arise here. It has been held in a catena of decisions that the issue of repugnancy arises only in a case where two inconsistent laws relate to a subject falling under the Concurrent List in the Seventh Schedule of the Constitution of India. It is only then that Article 254(2) will be invoked.

25. There cannot be any repugnancy when the legislation in question relates to either the Union List or the State List as Parliament and the State Legislature has exclusive jurisdiction with regard to the subjects falling under the Union List and the State List, respectively. In such a case, the only issue that may arise is with regard to legislative competence and one of two laws must be void on grounds of legislative incompetency. The same can be ascertained only by applying the doctrine of ultra vires.

26. The argument that IT Rules, 2021 already prescribe regulatory framework for intermediaries including online gaming platforms and hence the State cannot frame a subordinate legislation regarding online real money games due to the presence of central legislation is unacceptable. This Court views that the State Government is fully within its competence to enact laws pertaining to online real money games. This Court on perusal of the provisions of the Act, 2022 finds no contradictions or provisions that run contrary to the Central Rules in force.

27. More so, the regulation framed by the Tamilnadu Government is an imminent necessity keeping in mind the adverse effects of online real money games as pointed out in the expert committee report and also taking note of the fact that the provisions related to online gaming under IT Rules, 2021 is yet to take effect and remains unenforceable as on today due to the check imposed in Rule 4B of the IT Rules. So there exists a vacuum in regulating online games and this Court is of the view that the State Government has rightfully taken adequate steps to fill in the vacuum by framing the current legislation. Regulation is a part and parcel of any trade activity and the State has full powers to regulate trade within its territorial jurisdiction.

28. It was further contented by the Petitioners that online RMGs cannot be regulated by the State Government, as it entrenches upon the Centre's power to legislate in matters corresponding to Information Technology under Entry 31 of List I. But this argument becomes untenable through application of the doctrine of pith and substance. This doctrine prescribes that "if an enactment substantially falls within the powers expressly conferred by the Constitution upon the legislature which enacted it, it cannot be held to be invalid, merely because it incidentally encroaches on matters assigned to another legislature". It has been evolved to solve the problem of competitive legislatures as held by the Privy Council in ***Gallagher v. Lynn***³ and ***Prafulla Kumar Mukherjee v. Bank of Commerce, Ltd***⁴. Once a law "in pith and substance" falls within a legislative entry, an incidental encroachment on an Entry in another List does not affect its validity.

29. Where a law passed by the State Legislature while being substantially within the scope of the entries in the State List entrenches upon any of the entries in the Central List, the constitutionality of the law may be upheld by invoking the doctrine of pith and substance if on an

3 1937 AC 863

4 1947 SCC OnLine FC 5

analysis of the provisions of the Act, it appears that by and large the law falls within the four corners of the State List and entrenchment, if any, is purely incidental or inconsequential.⁵

30. Here the State Government averred that the Pith and substance of the impugned regulation is preservation of 'public health' by regulating 'trade and commerce within the State' which are subject matters that fall exclusively within the legislative competence of the State. Hence it is clear that the regulations cannot be rendered void based on incidental encroachment upon Centre's power to regulate activities in cyberspace.

31. The observation of the Supreme Court in Pandurang **Ganpati Chaugule vs Vishwasrao Patil Murgud Sahakari Bank**⁶ is relied upon,

"76. In Delhi Cloth & General Mills Co. Ltd.", the question came up for consideration concerning legislation whether it falls within one entry or the other. However, some portion of the subject-matter of the legislation incidentally trenched upon and might enter a field under another List; then, it must be held to be valid in its entirety, even though it might incidentally trench on matters which are

⁵ M. Karunanidhi v. Union of India, (1979) 3 SCC 431

⁶ (2020) 9 SCC 215

beyond its competence. It was observed:

“33... When a law is impugned on the ground that it is ultra vires the powers of the legislature which enacted it, what has to be ascertained is the true character of the legislation. To do that one must have regard to the enactment as a whole, to its objects and to the scope and effect of its provisions (see A.S. Krishna v. State of Madras 51, SCR p. 410). To resolve the controversy if it becomes necessary to ascertain to which entry in the three Lists, the legislation is referable, the court has evolved the doctrine of pith and substance. If in pith and substance, the legislation falls within one entry or the other but some portion of the subject-matter of the legislation incidentally trenches upon and might enter a field under another List, then it must be held to be valid in its entirety, even though it might incidentally trench on matters which are beyond its competence.”

32. In true essence, the Online Real Money Games is a trade activity, which if left unregulated has immediate implications on health of the public. So the fundamental purpose of this piece of legislation is to protect public

health and regulate trade within the State, which squarely falls within the legislative competence of the State.

33. Also the observations of the Hon'ble Supreme Court in ***Union of India v. Shah Goverdhan L. Kabra Teachers' College***⁷, reaffirms the position of law that the language of the entries in all the three Lists of Seventh Schedule must be given the widest scope and the entries in different Lists should be read together without giving a narrow meaning to any of them in such a that giving widest meaning to one Entry does not render the other Entry meaningless or redundant. The relevant portion of the Judgment elaborating on this principle is extracted below:

"7. It is further a well-settled principle that entries in the different lists should be read together without giving a narrow meaning to any of them. Power of Parliament as well as the State Legislature are expressed in precise and definite terms. While an entry is to be given its widest meaning but it cannot be so interpreted as to override another entry or make another entry meaningless and in case of an apparent conflict between different entries, it is the duty of the court to reconcile them. When it appears to the court

⁷ (2002) 8 SCC 228

that there is apparent overlapping between the two entries the doctrine of "pith and substance" has to be applied to find out the true nature of a legislation and the entry within which it would fall. In case of conflict between entries in List I and List II, the same has to be decided by application of the principle of "pith and substance". The doctrine of "pith and substance" means that if an enactment substantially falls within the powers expressly conferred by the Constitution upon the legislature which enacted it, it cannot be held to be invalid, merely because it incidentally encroaches on matters assigned to another legislature.

When a law is impugned as being ultra vires of the legislative competence, what is required to be ascertained is the true character of the legislation. If on such an examination it is found that the legislation is in substance one on a matter assigned to the legislature then it must be held to be valid in its entirety even though it might incidentally trench on matters which are beyond its competence. In order to examine the true character of the enactment, the entire Act, its object, scope and effect, is required to be gone into. The question of invasion into the territory of another legislation is to be determined not by degree but by substance. The doctrine of "pith and substance" has to be applied not only in cases of

conflict between the powers of two legislatures but in any case where the question arises whether a legislation is covered by particular legislative power in exercise of which it is purported to be made".

34. So the State Government has ample powers to protect the public health. More so, in the instant case, there has been widespread reports across the State of Tamilnadu on the impact that online real money games had on people including reports of suicide and other adverse health issues. It is only the duty of the State as enunciated in Article 39 of Part IV of the Constitution of India in Directive Principles of State policy to ensure that the State shall, in particular, direct its policy towards securing—

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

35. It also envisages under Article 47 that it is the Duty of the State to raise the level of nutrition and the standard of living and to improve public health. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

36. So the State reserves its right to legislate matters related to Public health and more specifically the State Government's competence to legislate on online real money games remain undeterred by virtue of Entry 6 and 26 in List II of the Seventh Schedule to the Constitution.

37. The second point of contention raised by the petitioners is that the impugned provisions run contra to Arts 19(1)(g) and 21 of the Constitution and hence stands defeated vide the doctrine of ultra vires.

38. The Petitioners contended that Regulation 4(viii) of RMG Regulation stretched beyond Section 5(2)(a) of TN Online Gaming Act. Regulation 4(viii) of the RMG Regulations, 2025 states as follows:

Blank hours shall be implemented for the real money games from 12 midnight to 5 am (based on Indian Standard Time i.e., UTC +05.30 hrs). No Login of the games shall be allowed during these restricted hours.

39. It is the argument of the petitioners that Section 5 contemplates individualised restrictions such as time limit, age limit and monetary limit which only applies to players playing on the platform and not the Petitioners who are only providing an online gaming intermediary platform for the players. So by applying the principle of *ejusdem generis*, the term time limit must be interpreted consistently with monetary limit and age restriction both of which are user specific controls. Therefore, the Regulation 4(viii), mandating a blanket shutdown, is ultra vires the Tamil Nadu Online Gaming Act.

40. It was further averred that the time restriction imposed on login to online real money games must be individualistic rather than generic. Individual preferences were not considered and greater flexibility ought to have been given instead of imposing a blanket prohibition on the fixed period. It was argued that there was a selective targeting of specific hours without rational justification or empirical basis thereby infringing upon Article

19(1)(g) of the Constitution and rendering the regulation arbitrary and disproportionate. In support of this contention, reliance was placed on judgment of this Hon'ble High court in ***Junglee Games India Private Limited*** cited supra whereby it was held that,

"125..... Although the State could contend with some degree of justification that its legislative competence extends beyond Entry 34 by drawing on, for instance, Entries 1, 26 or 33, in such event, the State should have discharged the burden of establishing proportionality."

41. The 1st Respondent replied that this Hon'ble Court in "***AIGF 2023 Judgment***", while interpreting Section 5 of the Act, 2022, observed that "*The State can provide for the time limit, that the game may not be played after a particular time*". The Authority intends to restrict online real money games played after a particular time i.e., 12 AM for the following reasons:

a."Impact on Cognitive Function and Decision-Making:"

Studies show that lack of sleep significantly impairs decision-making and increases impulsivity.

b. Circadian Rhythm & Brain Function: The prefrontal cortex, responsible for rational thinking, is less active at night, making

individuals more prone to irrational decisions and losses and increased risk of addiction.

c. Nighttime problem usage: Research suggests that problem usage is more likely to engage in online gaming late at night. This is because self-control is lower, and dopamine levels (linked to reward-seeking behaviour) are higher at night, making real money gaming more addictive.

d. Negative health effects and disrupted sleep patterns:

Playing between midnight and 5AM has a high likelihood to disrupt sleep cycles, leading to insomnia, anxiety, and depression.

e. Increased stress & burnout: Chronic late-night online gaming is linked to higher stress levels and mental health issues, contributing to burnout and reduced productivity during the day.

f. Higher Risk of Fraud and Unethical Practices: The online game players (especially students) are subject to reduced monitoring at night, increasing the chances of fraud, cheating, and unfair practices. Further, users are more likely to make irrational spending decisions, leading to severe financial consequences.

g. Suicides on account of monies lost in online gaming: The 4th Respondent) has issued a letter dated 18.10.2024, wherein the details of cases on i.e., suicides on account of debt or addiction to

online games for the period between 2019 and 2024 in the State of Tamil Nadu has been furnished. In this letter dated 18.10.2024, the total number of such suicides on account of loss and addiction to online games has been mentioned as 47 in the State of Tamil Nadu”

42. This Court finds concurrence with the reasons adduced by the State Government in initiating efforts to regulate online RMGs. The adverse effects is much larger to the people than the need for securing the individual right to free trade. Regulation becomes a priority to ensure the safety and protection of the general public and the actions of the government cannot be termed baseless or disproportionate.

43. And the unfairness in RMG regulations was pointed out by the petitioners stating that other online games and online entertainment such as OTT platforms, social media platforms equally operates in the blank hours but only Online RMG has become a subject matter of restriction.

44. The Respondent State Government countered this argument by stating that all forms of online games played for stakes are completely banned in States like Andhra Pradesh and Telangana. Further the

provisions of the Tamil Nadu Shops and Establishment Act, 1947 cannot be compared to that of the regulations formed under the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, as the object and the purpose of the two legislations intend to serve are much different. It is pertinent to note that commercial establishments such as clubs, bars etc., in the State of Tamil Nadu are not permitted to operate beyond a particular time, typically 11:00 PM.

45. The contention of the Petitioners that no blank hours was imposed by the State in watching movies on Netflix and Prime is unsustainable as there are no stakes involved. In terms of watching movies, a standard subscription fee is paid by all viewers based on the subscription plans available and access to content is allowed by the movie streaming platforms based on the plan subscribed. Similarly most of the online games or entertainment is provided on payment of a standard fee fixed by the online platforms, based on which access is granted to the viewer. Many online games can also be played for free. There is no payment involved. Even in online games such as candy crush as quoted by the petitioners, it can be played entirely for free and though they have an in-app currency and the option to purchase items, it predominantly operates on freemium model. But it is only in Online RMGs where there are stakes involved and the players

get attracted by the prospect of rewards, which could lead to addictive behaviour and more often than ever tend to get lost in the pleasure of the game.

46. To elaborate further, a few wins in the start may entice the player to play with more money and naturally becomes addictive which may eventually allow himself to be lost in the game. The dopamine rush may trigger him to play with his money again and again, thereby unaware of the financial loss he is prone to. In a Country like ours, which is still progressing, where we are yet to attain 100% literacy and the different categories of economic and social backgrounds from which people come, it would be impossible to expect every individual accessing the game to have 100% knowledge about the consequences or risks that is involved. It is only in recent time that there is a widespread access to internet and smartphones enabling people to access an assortment of online entertainment/games/trade. Moreover, playing rummy or poker games online is a relatively new ballgame for our people, as more often these games were played offline only against fellow humans who the player gets to observe and play the cards taking into consideration even the slightest hand movements and body languages and other facial reactions exhibited. But when played through online mode, the cards are often dealt by the

gaming platform and there is no scope to take note of these and the player may not even know against whom the game is played. There is no chance to read the opponent and hence the player is in a slightly disadvantageous position. So it is imperative that the Government take adequate steps to streamline and regulate these unexplored waters to ensure fair play and secure the physical and financial safety of the players indulging in these online RMGs.

47. Also there is a sense of discipline involved in terms of playing games physically. Be it games like cricket or chess, there is a certain game discipline and players are more professional in their approach towards the game. Though Winning is the goal, it is not just confined to that. The nature, mode and ethics of playing the game is equally important. Once lost, there is always another try with the same level of focus and training. But the online RMGs do not seem to possess such level of discipline or professionalism. It is played more for the thrill of winning and a certain level of addiction sets in after a point. This addiction begins to tamper with reasoning abilities, thereby deterring the player's cognitive decision making abilities.

48. The petitioners also challenge the insistence of Aadhar based

authentication under Regulation 4(iii) of RMG Regulation stating that it is not in consonance with the AADHAR Act. Reliance is placed on Section 4(7) of the AADHAR Act and ***Justice K.S.Puttaswamy(Retd) v. Union Of India***⁸ which states that AADHAR can only be demanded for a purpose suggested through a law of the Parliament and that must have State interest. The Petitioners submitted that the RBI recognises multiple Officially Valid Documents (OVDs) for KYC purposes, including passports, driving licences, Voter identity cards, NREGA cards and proof of possession of AADHAR Number. Therefore, mandating AADHAR as the sole means of authentication is arbitrary and excludes other forms of identification. It was also emphasised that AADHAR is not a definitive proof of age, as even minors can possess AADHAR cards, rendering it ineffective for age verification purposes.

49. The State Government in response, submitted that AADHAR is preferred by the State since UIDAI provides two factor Authentication by generating OTP to the registered mobile number of the AADHAR card holder. This enables the gaming service provider to effectively verify the age of the players and ensure that minors are prohibited from playing online real money games. It is pertinent to note that this authentication mechanism merely enables the verification of the age of the user and the Central

⁸ 2019 (1) SCC 1

Repository does not share any information of the AADHAR holder with the requesting entity.

50. The respondent further submitted that some of the online gaming apps/companies such as MPL Rummy(Mobile Premier League), Classic Rummy, 'Real 11' and 'Kilaadi Adda Rummy' have complied with the AADHAR two factor KYC verification process.

51. The other ID proofs, though act as valid identification proof, are not backed by an infrastructure which facilitates verification by a private entity.

Example: If a minor misuses the driving license numbers of his parents, grandparents and other relatives by keying in the passport numbers, or for that matter, if the minor enters random numbers, there is no mechanism to verify the same to be authentic.

52. It is also noteworthy that the Petitioners, who are challenging the mechanism of using AADHAR as a proof for verification in the present writ petition have themselves previously suggested in the "**AIGF 2023 Judgment**" before the Hon'ble Division Bench that AADHAR shall serve as a precautionary measure to confirm the age of the player. The relevant

portion is as extracted below:

*“116. It is to be considered that the online games, in the instant case, are not available for persons/children below the age of 18 years. Online games can be played only by the persons who are 18 years and above i.e., major and not School children. **The apprehension raised by the learned Senior Counsel for the State was that there would be no methodology to verify the age of the person playing. The petitioners responded to it by suggesting that a person, before he enrolls to play, is required to submit his Aadhaar Card, photograph, KYC and other precautionary measures are taken to confirm that the person playing is 18 years old or more.**”*

53. The respondents also contended that the State is only verifying the phone number and date of birth of the player to ensure effective implementation of Regulation 4(i) of the Impugned regulations. This is similar to the requirement to enter AADHAR details in apps like Digi Yatra, except unlike Digi Yatra that collects the biometrics, geographical location etc., of the users, the entities offering online real money games are permitted by the Regulations to use AADHAR details only to verify the phone number and age of the player, and are not given access to other

personal information of the user.

54. Also Section 4 of the AADHAR (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 read with the AADHAR Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2025 enables any entity such as the Online game providers to present a proposal to the concerned Ministry (in this case Ministry of Electronics and Information Technology) to seek approval of the Central Government for utilising AADHAR authentication to provide better access to their services.

55. The learned counsel for the petitioners also contended that, a law made by the Parliament is a pre-requisite for an entity to perform Aadhar authentication. However, Section 4(4)(b)(i) allows an entity to perform authentication, if it is permitted by the Central Government in the interest of the State. The following provisions of the AADHAR Act and its Rules are relevant in this regard:

Section 4(4)- An entity may be allowed to perform authentication, if the Authority is satisfied that the requesting entity is—

(a) compliant with such standards of privacy and security as may be specified by regulations; and

(b) (i) permitted to offer authentication services under the provisions of any other law made by Parliament; or

(ii) seeking authentication for such purpose, as the Central Government in consultation with the Authority, and in the interest of State, may prescribe.

Rule 3- Purposes for Aadhaar authentication. - (1) The Central Government may allow Aadhaar authentication by requesting entities for

(aa) promoting ease of living of residents and enabling better access to services for them

Rule 4(2)- Any entity other than the Ministry or Department referred to in sub-rule (1), which is desirous of utilising Aadhaar authentication, shall prepare a proposal with justification in regard to the authentication sought being for a purpose specified in rule 3 and in the interest of State, and submit the same to the concerned Ministry or Department of the appropriate Government.

Rule 4(3)- If the Ministry or Department referred to in sub-rule (2) is of the opinion that the proposal submitted thereunder fulfils a purpose specified in rule 3 and is in the interest of State, it shall forward the proposal, along with its recommendations, to the Central Government, for making a reference to the Authority.

56. Furthermore the Union Government in its Counter Affidavit

confirms that online gaming service providers shall use the Aadhar Authentication in the interest of the State,

“8... Further, it is submitted that the online gaming service providers may seek permission for use of Aadhaar authentication, on voluntary basis, under the Aadhaar authentication of Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020 (as amended in 2025), provided their use-case is in the interest of the State”

57. The learned counsel for the petitioners submitted that 4(vi) and 4(vii) of the impugned regulations sufficiently serve the purpose of preventing financial loss resulting from online real money games, the learned counsel for the petitioners argued that the said regulations can only be applicable to activities that are *Res extra Commercium* and must be read down qua online games of skill.

58. But the learned counsel for the respondents contended that the purpose of the impugned regulations is to regulate online games of skill which involve money. It is pertinent to note that the object of the parent Act is to completely prohibit online gambling i.e., games of chance in the State and to regulate Online games of skill. Thus, reading down the regulation

qua online games of skill would render it meaningless and defeat the purpose of the regulation. The Hon'ble Supreme Court in the case of ***Calcutta Guj. Education Society & Another v. Calcutta Municipal Corporation & Others***⁹ observed that the rule of "Reading Down" is only for the limited purpose of making a provision workable and its objective achievable. The relevant portion of the judgment is extracted below,

"35. The rule of "reading down" a provision of law is now well recognised. It is a rule of harmonious construction in a different name. It is resorted to smoothen the crudities or ironing out the creases found in a statute to make it workable. In the garb of "reading down", however, it is not open to read words and expressions not found in it and thus venture into a kind of judicial legislation. The rule of reading down is to be used for the limited purpose of making a particular provision workable and to bring it in harmony with her provisions of the statute. It is to be used keeping in view the scheme of the statute and to fulfil its purposes."

59. This Court is of the considered opinion that the reasons adduced by the learned counsel for the petitioner, seeking to dilute the requirement of AADHAR as a ID proof in the verification process is not sufficient enough to

9 2003 (10) SCC 533

alter the said requirement. There is no strong reason to dilute the AADHAR requirement as the two factor authentication test being a necessary infrastructure to strictly confirm to the criteria of a player. Further the scope of manipulation or deceit is comparatively lesser in AADHAR verification when compared to other ID proofs.

60. The learned counsel for the respondents also submitted that the impugned regulations have been framed by the State to safeguard the right to life enshrined under Article 21. Therefore, the present case poses a scenario of intra-conflict between the same fundamental rights of different individuals. The decision of the Supreme Court in **'X' v. Hospital "Z"**¹⁰, is relevant to this respect, wherein it was held that "where there is a clash of two Fundamental Rights, the right which will have primacy is the public morality or public interest". The Court further held that "when there is a conflict between two individuals qua their right under Article 21, to balance the rights of parties, the Court would apply the test of larger public interest or the test of 'greater community interest'".

61. The learned counsel for the petitioners have pointed out that the State cannot exhibit a paternalistic attitude. But the issue here is not confined to this alone, the social repercussions that may arise is a cause of

¹⁰ (1998) 8 SCC 296

concern. A State should work towards the welfare of the people and the comparison that only online RMGs are regulated, other online activities are not regulated is not justifiable. Every such activity which is inconsistent with the welfare of the people must stand regulated by the State. The decibel level of right to privacy or personal autonomy granted across different countries may fluctuate based on the social, economic and cultural backgrounds in each country. To each their own. Our country is built on a social and cultural fabric which is distinct from the rest of the world. A random comparison with the rights or laws prevalent in other countries cannot be blindly applied here. An empirical approach must be adopted before applying laws from other countries. India is unique, multi cultural, multi linguistic, socially and culturally well built with a strong democratic structure. So as a welfare State, working towards the welfare of the people is its topmost priority. Protecting rights of the people is first and foremost as derived from our Constitution. Hence laws and policies must primarily be focused towards this ideal.

62. This Court is of the view that any online games or online entertainment is subject to regulation when it affects the public health of people at large. The focal test is that the ill-effects of such online activity must be directly linked to the public health and must result in serious social

repercussions if left unregulated. Any such online entertainment/game/trade then shall be subjected to regulation. The State cannot remain a mute spectator when the population at large is exposed to serious physical, mental and financial risks due to a constant exposure to a specific online entertainment/games/trade. In circumstances where a total prohibition is not possible at least a minimum of regulation becomes a necessity.

63. Article 19(1)(g) is subject to reasonable restrictions and the rights of the people at large must be balanced with the individual right to conduct trade. Article 19(1)(g) being a vital fundamental right cannot be used to deter the people's right to life under Article 21. The Court ought to take into consideration the rights of the people as well, who are the players engaged in playing the online RMGs. Their rights are also enshrined under the Constitution and they deserve protection from the State as mandated under the Constitution. When there have been several reports surfacing on the negative effects that the online RMGs have on the physical, mental and financial aspects of a player who in essence is not playing with another human but a pre-programmed computer, it would be only fair to ensure the right to life under Article 21 of the player is protected which also encompasses his right to health.

64. In the eyes of this Court, the submission put forth by the State is not restricted to just paternalism but goes a step beyond in ensuring the physical, mental and financial well being of its citizens which is its incumbent duty to protect. Though personal autonomy ought to be given utmost importance as given in many other countries across the world, that cannot be a sole deciding factor. Other aspects including the impetus on health and welfare of the citizens also form the spine of our Constitution. More often than not, the first right that is pleaded for in cases such as this is right to privacy as upheld by the Hon'ble Supreme Court in **Puttaswamy's case**. But it must be essentially understood that the **Puttaswamy's case** did not affirm for right to privacy as an absolute right. The character of the right was transformed into a fundamental right thereby immediately bringing within its fold the reasonable restrictions that is available to all other fundamental rights. So right to privacy carries with it , its own limitations and cannot be claimed in absolute. When put on a scale, a compelling public interest outweighs right to privacy.

65. In view of the discussions in the aforementioned paragraphs, the Writ Petitioners have not made out a case to grant the relief of declaration as such sought for in the writ proceedings. Consequently, all the Writ Petitions are dismissed. No costs. The connected Miscellaneous Petitions, if

any, are closed.

(S.M.S.J.,)

(K.R.S.J.,)

03.06.2025

gd

Index : Yes

Internet: Yes

Speaking order

Neutral Citation : Yes

To

1. State Of Tamil Nadu
Through Chief Secretary,
Secretariat, Fort St. George,
Chennai 600001.

2.State Of Tamil Nadu
Department Of Home,
Through Principal Secretary,
Secretariat, Fort St. George,
Chennai 600001.

3.State Of Tamil Nadu
Department Of Law, Through Principal
Secretary, Secretariat, Fort St.
George, Chennai 600001.

4.Director General Of Police
State Of Tamil Nadu,
Office Of The Director General,
Kamarajar Salai,
Chennai 600004.

5.Tamil Nadu Online Gaming Authority
1st Floor, Urban Administrative
Building
75 Santhome High Road, Mrc Nagar,
Raja Annamalai Puram,
Chennai 600028.

6.Union Of India
Through Ministry Of Electronics And
Information Technology,
Electronics Niketan, 6 CGO Complex,
Lodhi Road, New Delhi 110003.

W.P.Nos.6784, 6794, 6799, 6970, 8832 and 13158 of 2025

S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

gd

Pre-Delivery Order in
W.P.Nos.6784, 6794, 6799, 6970, 8832 and 13158 of 2025

03.06.2025