



INDIAN POKER ASSOCIATION V. STATE OF KARNATAKA, (WP NOS. 39167 TO 39169 OF 2013)

AUTHOR – ABIRAMI MOHAN, STUDENT AT BMS COLLEGE OF LAW, BENGALURU

BEST CITATION – ABIRAMI MOHAN, INDIAN POKER ASSOCIATION V. STATE OF KARNATAKA, (WP NOS. 39167 TO 39169 OF 2013), *ILE LEX SPECULUM (ILE LS)*, 1 (1) OF 2023, PG. 562-565, APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2

ABSTRACT

In the matter of Indian Poker Association v. State of Karnataka, (WP Nos. 39167 to 39169 of 2013) the Karnataka High Court delivered a judgment striking down major portions of the Karnataka Police (Amendment) Act, 2021 what banned online gambling and skill-based gaming platforms. Currently, there's no respective legislation with respect to the legality of skilled base gaming⁸²¹. The Indian gaming industry has been growing over the period of years and with the increased usage of mobile phones and the internet, gaming business has grown tremendously in our country. Game of skill is the one which the player takes time to learn and develop the talent. Different High Court's have come to different conclusions about whether poker is a game of skill or a game of chance.

KEYWORDS : Poker, Karnataka, Skill, Game, Law, Legislation



⁸²¹ Jyotsna Chaturvedi and Avantika Singh, FANTASY SPORTS IN INDIA: A GAME OF SKILL V. CHANCE, Maheshwari & Co. Advocates and Legal consultants

Case Title	Indian Poker Association v. State of Karnataka
Case Number	WP Nos. 39167 to 39169 of 2013
Date of the Order	08/10/2013
Jurisdiction	High Court of Karnataka
Quorum	Justice A.S.Bopanna
Author of the Judgment	Author-Justice A.S.Bopanna
Petitioner	Indian Poker Association
Respondents	5. The State of Karnataka 6. The Commissioner of Police 7. The DY. Commissioner of Police 8. Sri. Shivamurthy
Counsel for Petitioner	Advocate Sri. Ravi B.Naik, Advocate Sri. B.S.Raghu Prasad
Counsel for Respondent	Sri.E.S. Indires, HCGP For R1 to R3 R4
Acts and Sections Involved	• Constitution of India 1950 Article 226 and Article 227 • Karnataka Police Act, 1963 Section 79 and Section 80

II. INTRODUCTION

Many games like Rummy and Poker are believed to be addictive in nature. Playing such games with monetary stakes leads to depression, anxiety, debt and suicide. Due to the increased usage of the Internet and mobile phones many youngsters are actively involved in such games which may cause losses. Many youngsters are suffering from the gaming disorder which results in

committing crimes like theft and suicide. Framing of legislations governing gambling have been entrusted with the state legislatures. Certain states in India have enacted their own legislation to regulate gaming or gambling laws within its territory. Many legislations were enacted before advent of virtual gambling. Gambling activities taking place in physical premises is considered as gaming houses.

When the player's physical ability decides the outcome of the game which takes time to learn and practice the game, it's considered as game of skill. Whereas, game of chance is unpredictable and is based on luck. Gaming laws in India varies from state to state⁸²². There are common laws, but the legislation is up to the state. The legislation of fantasy sports are still not upto date and questions the legality of such games. There's lack of similarity of clarity in the gaming law between the states resulting in a complex legal frame work.

III. FACTS OF THE CASE

The petitioner is stated to be a registered society and is engaged in the activity of providing a venue for its members for the purpose of recreation. One of the games being conducted in the club premises is that of poker. Though no license is required for playing such game of skill, the petitioner by way of caution, is stated to have sought for permission and the same has been granted to the petitioner. The respondent No.4 without authority and despite the petitioner adhering to law has been interfering with the conduct of the games in the premises.

It was submitted by the respondents that there has been certain illegal activities, the case has been registered in crime No.217/2013 of Pulakeshinagar Police station. It was clarified that, if the respondents have any definite information with regard to the illegal activities, only in such events the

⁸²² Advocate Anik, Legality of Online Faming in India, Vidhikarya

respondents would be entitled to take action in accordance with law and the same shall not ordinarily be indulged in, to prevent the lawful activities of the petitioner. If the petitioner has any specific grievance against the respondent no.4 or any other police officer who may interfere with the activities of the petitioner without authority of law, it would always be open for the petitioner to make appropriate representation to the next higher authority of the police concerned.

IV. ISSUES

A. Whether writ petitions can be filed under Articles 226 and 227 of the Constitution of India praying to issue a writ in the nature of mandamus?

B. Whether there are interference to the activities of the petitioner in conducting poker games or tournaments in the address as stated in the cause title?

C. Whether fantasy sports requires license and is it not considered as an actual sport?

V. ARGUMENTS FAVOUR OF PETITIONER

A. The Petitioner is seeking for issue of mandamus and writ petitions are filed under Articles 226 and 227 of the Constitution of India praying to issue a writ in the name of mandamus.

B. Enquiry against the Respondent No.4 for the illegal act of trespassing and exercise of power without authority.

C. The petitioner is stated to be a registered society and is engaged in the activity of providing avenue for its members for the purpose of recreation. Poker was one of the games being conducted in the club premises.

D. The petitioner by way of caution, is stated to have sought for permission and the same has been granted to the petitioner.

E. Enquiry against the respondent no.4 for the illegal act of trespassing and exercise of power without authority has been directed.

F. It was found that the respondent no.4 without authority and despite the petitioner

adhering to law has been interfering with the conduct of the games in the premises.

V. ARGUMENTS FAVOUR OF RESPONDENTS

A. It was submitted by the respondents that the members of the club are indulging in illegal activities.

B. License required for playing such game of skill was questioned in the court of law.

C. The respondents filed objections statement. Illegal activities were indulged in the name of the game of skill to be played in recreational clubs.

D. The respondents have relied on the FIR and the proceedings that was initiated in crime No.217/2013.

VI. ORDER OF THE COURT

The petitioner was seeking for issue of mandamus and to direct the respondents not to interfere with the activities of the petitioner in conducting poker games in the premises⁸²³. The petitioner is stated to be a registered society and is engaged in the activity providing a venue for its members for the purpose of recreation. Poker was one of the games conducted in the club premises. Though no license is required for playing such game of skill, the petition by way of caution, is stated to have sought for permission and the same has been granted to the petitioner. The respondent no. 4, without authority and despite the petitioner adhering to law has been interfering with the conduct of the games in the premises. In the guise of recreational activities, when it's found that the members of the club are indulging in illegal activities, appropriate action is taken in accordance with law. In this case, it's submitted that there has been certain illegal activities, the case has been registered in crime no.217/2013 of Pulakeshinagar Police station for the offences punishable under section 79 and 80 of the Karnataka Police Act. In respect of the game of poker if played as a game of skill, license is not contemplated. The permission in this case has

⁸²³ Indian Kanon Case study, Indian Poker Association Vs The State of Karnataka on 8th October 2013.

obtained in that regard, the petitioner would be entitled to conduct such games, provided the same is in accordance with law. It is to be clarified that, if the respondents have any definite information with regard to the illegal activities, only in such event the respondents would be entitled to take action in accordance with law and the same shall not ordinarily be indulged in, to prevent the lawful activities of the petitioner. The Hon'ble Karnataka High Court held that the game of poker if played as a game of skill, license is not contemplated.

VII. CONCLUSION

The case shows the importance of legality of special skilled games. The outdated country laws need to be updated to regulate the gaming law in their current form. Legal uniformity between the states regarding the gaming law has to be achieved. An amendment to the old law that recognizes current form of gaming may be advisable and steps to promote state level negotiations to achieve legal similarities has to be taken.

VIII. RELATED CASE LAW

- A. D.Siluvai Venance vs State Rep. By on 25 October, 2019

IX. REFERENCES

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