

[3314]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

TUESDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
AND
THE HONOURABLE DR JUSTICE K MANMADHA RAO



I.A.Nos. 1 OF 2022

IN

WRIT PETITION Nos. 19659, 19571 & 19732 OF 2020

I.A.No.1 OF 2022 IN WRIT PETITION NO: 19659 OF 2020

Between:

1. The State of Andhra Pradesh, through Chief Secretary, Secretariat, Amaravathi
2. The State of Andhra Pradesh, Department of Home, Through Principal Secretary, Secretariat, Amaravathi
3. The State of Andhra Pradesh, Department of Law, Through Principal Secretary, Secretariat, Amaravathi
4. The Director General of Police, State of Andhra Pradesh, Office of Director General, Mangalagiri

Petitioners/Respondents

AND

1. Play Games 24x7 Private Limited, Regd Office at 5th floor, Central Wing (B), Tower-4, Nesco IT Park, Nesco Centre, Western Express Highway, Goregaon (E), Mumbai-400063
2. Bhavin Pandya, S/o. Shri Kaushik Pandya, Age. 40 years, Occ:CEO, R/o.B.2205, Oberoi Exquisite, Aba Karmakar Road, Goregaon (E) Mumbai – 400 063.

Respondents/Petitioners

IA NO: 1 OF 2022

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to permit the State to bring on record the documents enclosed to the annexure as material papers for adjudication of the case, pending disposal of W.P.No.19659 of 2020, on the file of the High Court.

I.A.No.1 OF 2022 IN WRIT PETITION NO: 19571 OF 2020

Between:

1. The State of Andhra Pradesh, Through Chief Secretary, Secretariat, Amaravathi.
2. The State of Andhra Pradesh, Department of Home, Through Principal Secretary, Secretariat, Amaravathi.
3. The State of Andhra Pradesh, Department of Law, Through Principal Secretary, Secretariat, Amaravathi.
4. The Director General of Police, State of Andhra Pradesh, Office of the Director General, Mangalagiri.

AND

Petitioners/Respondents

1. Junglee Games India Private Limited, Regd. Office at 2nd Floor, 55, Lane-2, Westend Marg, Saidullajab, Near Saket Metro, New Delhi, South West Delhi, Delhi-110030

Through its Authorized Representative Mr. Rahul Nandkumar Bhardwaj

2. Rahul Nandkumar Bhardwaj, S/o. Shri Nand Kumar Bhardwaj Aged about 37 years Occ- COO, Regd. Office at 2nd Floor, 55, Lane-2, Westend Marg, Saidullajab, Near Saket Metro, New Delhi, South West Delhi, Delhi-110030

Respondents

IA NO: 1 OF 2022

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to permit the State to bring on record the documents enclosed to the annexure as material papers for adjudication of the case, pending disposal of W.P.No.19571 of 2020, on the file of the High Court.

I.A.No.1 OF 2022 IN WRIT PETITION NO: 19732 OF 2020

Between:

1. The State of Andhra Pradesh, Through Chief Secretary, Secretariat, Amaravathi.
2. The State of Andhra Pradesh, Department of Home, Through Principal Secretary, Secretariat, Amaravathi.
3. The State of Andhra Pradesh, Department of Law, Through Principal Secretary, Secretariat, Amaravathi.

4. The Director General of Police, State of Andhra Pradesh, Office of the Director General, Mangalagiri.

Petitioners/Respondents

AND

1. Jungle Games India Private Limited, Regd. Office at 2nd Floor, 55, Lane-2, Westend Marg, Saidullajab, Near Saket Metro, New Delhi, South West Delhi, Delhi-110030

Through its Authorized Representative Mr. Rahul Nandkumar Bhardwaj

2. Rahul Nandkumar Bhardwaj, S/o. Shri Nand Kumar Bhardwaj Aged about 37 years Occ- COO, Regd. Office at 2nd Floor, 55, Lane-2, Westend Marg, Saidullajab, Near Saket Metro, New Delhi, South West Delhi, Delhi-1100301.

Respondents/Petitioners

IA NO: 1 OF 2022

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to permit the State to bring on record the documents enclosed to the annexure as material papers for adjudication of the case, pending disposal of W.P.No.19571 of 2020, on the file of the High Court.

These petitions coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri.Sajan Poovayya, learned Senior Counsel and Sri.C.V.Mohan Reddy, learned Senior Counsel appearing Sri.Gandham Durga Bose Advocate for the Petitioners (in all the petitions) and of learned The Advocate General for State and Sri.C.Sumon, learned Special Government Pleader for appearing for Respondents (in all the petitions), the Court made the following.

ORDER:

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

AND

HON'BLE DR JUSTICE K. MANMADHA RAO

I.A. No. 1 of 2022

IN

WRIT PETITION NO. 19659 of 2020

AND

I.A. No. 1 of 2022

IN

WRIT PETITION NO. 19571 of 2020

AND

I.A. No. 1 of 2022

IN

WRIT PETITION NO. 19732 of 2020

COMMON ORDER: *(Per the Hon'ble Sri Justice C. Praveen Kumar)*

1. After the Writ Petition were heard, three Interlocutory Applications [I.A. No. 1 of 2022] came to be filed in Writ Petition Nos. 19659 of 2020, 19571 of 2020 and 19732 of 2022, by the Respondent No.2 seeking to permit the State to bring on record the Ordinance No. 4 of 2022, dated 1st October 2022, and the "Report of the Committee constituted by Tamil Nadu Government to recommend the desirability of a legislation to ban Online Card Games including Rummy [by Justice K. Chandru (Chairperson)] by way of filing this Permission Petition].
2. The Learned Advocate General appearing for the State would submit that the State of Tamil Nadu has issued an Ordinance No. 4 of 2022, dated 1st October 2022, to prohibit Online gaming and to regulate Online games in the State of Tamil Nadu. He

would further submit that the said Ordinance in Schedule-II has designated online rummy as a "game of chance" and the said Ordinance No. 4 of 2022 was issued on the basis of recommendations furnished by the Committee.

3. He urged the Court to allow the permission petition and to allow the Ordinance and Committee Report submitted by Justice K.Chandru to be placed on record in order to re-affirm the submissions made by the State in the batch of Writ Petitions.
4. He further submits that placing of this new material before this Court is very much necessary not only to substantiate the submissions made by the State but also to establish that Online Rummy is a "game of chance". Hence, prayed this Court to allow the present Interlocutory Applications.
5. However, the interlocutory applications were sternly objected to by Sri C.V. Mohan Reddy, Learned Senior Counsel, appearing for Writ Petitioners, stating that the Justice K. Chandru Report and the Ordinance have no relevance to present case, and the same is devoid of any merits. Furthermore, the report pertains to an Ordinance promulgated by State of Tamil Nadu under the Specific directions of the Tamil Nadu State Government.

6. He further submits that the State of Tamil Nadu initially banned all the “games of skill” including online rummy *vide* Tamil Nadu Gaming and Police law (Amendment) Act, 2021, however, the Hon’ble High Court of Judicature at Madras *vide* a Common Judgment, dated August 03, 2021, in **“Junglee Games India Private Limited v. State of Tamil Nadu¹”**, declared the amendments as *ultra vires* the Constitution of India in its entirety and the same was struck down.
7. It is further pleaded that, in the said Writ Petitions, the Petitioners challenged the amendments made in the year 2020 to The Andhra Pradesh Gaming Act, 1974, as such, in light of the facts circumscribing to the State of Andhra Pradesh, he urged the Court to consider the Writ Petitions as is applicable to the State of Andhra Pradesh.
8. The learned Senior Counsel further argued that considering the said report and ordinance at this juncture, will cause serious prejudice to the Petitioners. However, even if Report filed by Respondents is taken on record, the contents of the same does not stand proved and are not binding on this Hon’ble Court. He placed reliance on Constitution bench judgment of Hon’ble

¹2021 SCC Online Mad 2762

Supreme Court in “**Kalpana Mehta v. Union of India**”², wherein the Hon’ble Apex Court discussing about the relevance of a Judicial Report held as under:

“448. The apprehension of the respondents that their case shall be prejudiced if this Court accepts the Parliamentary Committee report in evidence, in our opinion is misplaced. By acceptance of a Parliamentary Committee report in evidence does not mean that facts stated in the Report stand proved. When issues, facts come before a court of law for adjudication, the court is to decide the issues on the basis of evidence and materials brought before it and in which adjudication Parliamentary Committee report may only be one of the materials, what weight has to be given to one or other evidence is the adjudicatory function of the court which may differ from case to case. The Parliamentary Committee reports cannot be treated as conclusive or binding of what has been concluded in the Report. When adjudication of any claim fastening any civil or criminal liability on an individual is up in a court of law, it is open for a party to rely on all evidence and materials which is in its power and court has to decide the issues on consideration of the entire material brought before it. When the Parliamentary Committee report is not adjudication of any civil or criminal liability of the private respondents, their fear that acceptance of report shall prejudice their case is unfounded. We are, thus, of the opinion that by accepting Parliamentary Committee report on the record in this case and considering the Report by this Court, the respondents’ right to dispel conclusions and findings in the Report is not taken away and they are free to prove their case in accordance with law.”

²AIR 2018 SC 2493:: (2018) 7 SCC 1

9. He also brought to notice of this Court that the Committee headed by Justice K. Chandru did not comprise of any gaming expert or a representative from the industry. He also pointed out that even though Justice K. Chandru Report mentions that the Committee comprised of members from "different areas of work", the only technical member in the committee appears to be Dr.Shankar Raman MJ, who is the CEO of IITM Pravartak Technologies Foundation and whose credentials are not available on the website.
10. Learned Senior Counsel appearing for Writ Petitioner further argued that it is very much clear from the terms of reference of the Committee that the whole intent was to ban online games specifically online rummy, despite it being a legally permissible business activity, protected under Article 19 (1) (g) of Constitution of India. This intent can be drawn from bare perusal of the Report where Report has incorrectly equated skill-based games with "gambling and betting", when played online.
11. Heard the both sides and perused the record.
12. It is not in dispute that the Government of Tamil Nadu constituted a Committee to recommend to the Government for brining a legislation to ban online card games including rummy. Pursuant thereto, a five Member Committee was formed headed

by Hon'ble Justice K. Chandru, as its Chairperson. Accordingly, the Committee submitted a Report to the Government of Tamil Nadu, making certain recommendation. Upon which, the State of Tamil Nadu, has issued an Ordinance No. 4 of 2022, dated 3rd October, 2022, prohibiting online gambling and to regulate online games in the State of Tamil Nadu.

13. It is to be noted that, the report of Justice K. Chandru and its recommendations were exclusively made basing on the facts and circumstances of the State of Tamil Nadu, and reliance of the said report by this Court is discretionary in nature. However, we are of the opinion that no importance can be given to the said report, as it to be made purely on the situation apt to the domain of the State of Tamil Nadu.
14. We are inclined towards the objections raised by the learned Senior Counsel appearing for the Writ Petitions that the Five Member Committee, which was constituted did not have any gaming expert or a representative of the industry. Hence, we are of the view that, placing reliance on that report, where there is no representation from the online gaming industry, would cause gross injustice to the Petitioners. There is no proof that an opportunity was afforded to the Writ Petitioners before Justice K.Chandru Report, to raise objection and, as such, placing

reliance on the said report and considering it, would definitely cause prejudice to the Writ Petitioner herein. Having regard to the above, we see no ground to allow the Interlocutory Applications.

15. Accordingly, the interlocutory Applications are **dismissed**. No order as to costs.

Sd/- U. SRI DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

For

SECTION OFFICER

To,

1. The Chief Secretary, State of Andhra Pradesh, Secretariat, Amaravathi
2. The Principal Secretary, Department of Home, State of Andhra Pradesh, Secretariat, Amaravathi
3. Principal Secretary, Department of Law, State of Andhra Pradesh, Secretariat, Amaravathi
4. The Director General of Police, State of Andhra Pradesh, Office of Director General, Mangalagiri (1 to 4 by RPAD)
5. One CC to SRI.GANDHAM DURGA BOSE Advocate [OPUC]
6. One CC to The Advocate General, High Court of Andhra Pradesh [OUT]
7. One CC to GP for Law, High Court of Andhra Pradesh [OUT]
8. One CC to GP for Home, High Court of Andhra Pradesh [OUT]
9. One CC to Sri.C.Sumon, Special Government Pleader, High Court of Andhra Pradesh [OUT]
10. Two spare copies

SRL

HIGH COURT

CPKJ & Dr.KMRJ

DATED:31/01/2023

NOTE: LIST AFTER (4) WEEKS

ORDER

I.A.Nos.1 OF 2022

IN

WRIT PETITION Nos. 19659, 19571 & 19732 OF 2020

I.A.'s ARE DISMISSED

