



GAMING LAW UPDATE

MADRAS HIGH COURT UPHOLDS STATE REGULATIONS ON ONLINE REAL MONEY GAMES

Background

The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 ("**TN Act**") was enacted to address concerns relating to online gambling and the proliferation of online real money games ("**ORMGs**"). The TN Act establishes the Tamil Nadu Online Gaming Authority ("**Authority**") and empowers it to regulate online games, prohibit gambling, and set norms relating to consumer protection, verification, and time restrictions.

Pursuant to Section 5 of the TN Act, the Authority notified the Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 ("**2025 Regulations**"), which among others:

- Prohibit minors from playing ORMGs;
- Mandate two-factor authentication (2FA) using Aadhaar-linked phone numbers to verify user age and identity;
- Introduce blank hours from 12:00 AM to 5:00 AM, during which users cannot log in to access ORMGs;
- Provide user-facing restrictions such as periodic spending reminders and the option to set daily, weekly or monthly limits.

The constitutional validity of these measures was challenged before the Hon'ble Madras High Court in a batch of writ petitions led by *24x7 Games Private Limited & Others v. State of Tamil Nadu*. Judgment was delivered on June 3, 2025.

Issues for Consideration

- Whether the State legislature is competent to enact the TN Act and 2025 Regulations.
- Whether Aadhaar-based authentication is violative of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 ("**Aadhaar Act**") or the right to privacy under Article 21 of the Constitution of India ("**Constitution**").



- Whether the 2025 Regulations are repugnant to the Information Technology Act, 2000 (“**IT Act**”) and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules**”).

Petitioners’ Arguments

- Online gaming, being an internet-based activity, falls under Entry 31 of List I of the Seventh Schedule of the Constitution, and therefore, only Parliament is competent to legislate.
- Aadhaar-based authentication is impermissible under Section 4(7) of the Aadhaar Act and violates the principles laid down in *Justice K.S. Puttaswamy (Retd.) v. Union of India*¹ (“**Puttaswamy Case**”).
- Aadhaar is not a definitive proof of age as even minors can possess Aadhaar cards. Moreover, the Reserve Bank of India (“**RBI**”) recognises several other Officially Valid Documents (“**OVDs**”) for Know-Your-Customer (“**KYC**”) requirements.
- Blank hours create an arbitrary restriction on user access and are disproportionate to the regulatory objectives.
- The IT Rules already regulate online gaming and leave no room for additional regulation by the States.

State’s Arguments

- The State relied on Entries 6 and 26 of List II of the Seventh Schedule of the Constitution, dealing with public health and trade within the State. It submitted that the intent of the legislation is to safeguard against addiction, suicides, and social disruption.
- Aadhaar-based 2FA is used only to verify age and mobile number. The Central Repository does not share any additional personal data.
- Other IDs such as passports or driving licences cannot be verified in real-time and are vulnerable to misuse.

¹ (2019) 1 SCC 1.



- The State cited previous suggestions by the petitioners in *All India Gaming Federation v. State of Tamil Nadu*² (“**AIGF 2023 Judgment**”), where Aadhaar was proposed and accepted as a means to confirm player age.
- Section 4 of the Aadhaar Act and the Aadhaar Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Amendment Rules, 2025 (“**Aadhar Rules**”) provide a pathway for private entities to seek authentication permissions from the Central Government in the interest of the State.

Court’s Observations and Findings

LEGISLATIVE COMPETENCE

The Court upheld the TN Act and 2025 Regulations as valid exercises of legislative power under Entries 6 (public health) and 26 (trade and commerce within the State) of List II in the Seventh Schedule to the Constitution. It emphasised that ORMGs had caused measurable societal harm, including cognitive decline, stress, sleep disruption, suicide, and deteriorating mental health, particularly among youth. Citing expert committee reports, the Court accepted that ORMGs addiction poses a legitimate threat to public health.

The Court dismissed the petitioners’ claim that the subject matter falls exclusively under Entry 31 of List I (posts and telegraphs; telephones; wireless, broadcasting and other like forms of communication). It clarified that the TN Act does not regulate telecommunications or infrastructure but rather the activity of online gaming within the State. The mere use of the internet as a medium does not preclude the State from regulating the content and effects of such activities.

Importantly, the Court invoked the doctrine of pith and substance to conclude that the dominant purpose of the TN Act is to regulate a harmful activity affecting public health and trade within the State, which falls squarely within the State List. It further clarified that as long as a law primarily belongs to a State subject and only incidentally touches on a Union subject, it is not rendered unconstitutional.

The Court also acknowledged the reality of a legislative vacuum at the central level. While the IT Rules had been notified in 2021 to regulate online gaming, the relevant provisions had not come into force due to non-designation of Self-Regulatory Bodies (“**SRBs**”). In light of this, the Court held that the State was entitled to step in to protect its residents.

² 2023 SCC OnLine Mad 6973.



AADHAAR AUTHENTICATION

The Court reviewed the Aadhaar-related contentions extensively. It acknowledged the petitioners' reliance on *Puttaswamy Case* and Section 4(7) of the Aadhaar Act but clarified that:

- The 2025 Regulations only require authentication of age and mobile number using Aadhaar-linked OTPs.
- The gaming platforms are not permitted access to the Central Aadhaar database beyond what is necessary for verification.
- The Court cited Rule 4(2) and (3) of the Aadhaar Rules, noting that private entities could seek approval from relevant Ministries to use Aadhaar-based authentication in the interest of the State.
- The Union Government, in its affidavit, confirmed that gaming service providers may seek such permissions on a voluntary basis.

Further, the Court referred to the submissions by the petitioners themselves in the AIGF 2023 Judgement where Aadhaar was suggested as an acceptable safeguard for confirming user age. This prior conduct, according to the Court, weakened the present challenge.

The Court did not formally apply the three-pronged test from *Puttaswamy Case* (legality, necessity, and proportionality), but found the restriction permissible based on the restricted scope of use, absence of sensitive data processing, and the broader public interest.

BLANK HOURS

The Court upheld the 2025 Regulations requiring five hours of daily inaccessibility, noting that such a measure was designed to curb late-night compulsive gaming. It observed that:

- ORMGs differ significantly from other forms of online entertainment due to the presence of financial stakes.
- Late-night gaming can result in sleep loss and behavioural issues, particularly among vulnerable users.
- Regulation 4(viii) of 2025 Regulations serves as a deterrent to round-the-clock gameplay and was found to be a reasonable restriction.

The Court rejected the argument that restrictions should be user-specific, noting that the goal of behavioural intervention justified a general limitation.



NO REPUGNANCY WITH IT RULES

The Court ruled that the TN Act and 2025 Regulations operate in a distinct constitutional field from the IT Act and rules formed thereunder. Since the IT Rules are rooted in Entry 31 of List I of the Seventh Schedule to the Constitution and the TN Act along with the 2025 Regulations in Entries 6 and 26 of List II, no repugnancy under Article 254 arises. The Court also noted that key provisions of the IT Rules concerning online gaming had not come into force due to the pending notification of SRBs by the Ministry of Electronics and Information Technology (“MeitY”). The State was therefore entitled to act to protect its citizens in the interim.

Closing Analysis

This judgment marks a significant milestone in the regulation of ORMGs at the State level. The Court endorsed the State’s ability to regulate based on public health grounds and recognised the real-life consequences of ORMGs addiction, including suicides and financial distress. By differentiating ORMGs from casual games and rejecting arguments based on infrastructure control, the Court has laid the foundation for a public health-based jurisprudence on digital gaming.

The reasoning on Aadhaar authentication is pragmatic. While the judgment avoids a constitutional proportionality test, it affirms that narrowly tailored use of Aadhaar for non-intrusive verification, supported by central frameworks is valid. The Court’s reliance on prior conduct by petitioners and the absence of any actual data misuse by platforms bolstered its findings. Notably, it declined to read down the Aadhaar clause, citing *Calcutta Gujarati Education Society v. Calcutta Municipal Corporation*³, and reinforced judicial deference to policy choices aimed at societal welfare.

This judgement has further contributed to the prevailing regulatory uncertainty in the gaming sector. While the Government of India through a gazette notification dated December 23, 2022, has appointed MeitY as the nodal authority for online gaming- additional regulatory involvement has emerged - most notably the inclusion of online gaming regulation in the National Broadcasting Policy, 2024 by the Ministry of Information and Broadcasting. Further, MeitY is also engaged in preparing the draft of a new ‘Digital India Act’ to replace the IT Act which is expected to also regulate online games.

Interestingly, in respect of KYC procedures, it is pertinent to note that IT Rules provides that procedure required to be followed by an entity regulated by the RBI for identification and

³ (2003) 10 SCC 533.



verification of a customer at the commencement of an account-based relationship shall apply, *mutatis mutandis*, in identification and verification of the users of such online gaming intermediary which includes Aadhaar as one of the OVDs. However, Tamil Nadu Government have gone a step further by making Aadhaar-based KYC mandatory.

This move may set a precedent for other state governments to introduce their own regulatory frameworks, exacerbating the already fragmented legal landscape governing online gaming in India which is likely to pose significant compliance challenges and operational burdens for online gaming companies, ultimately hindering the growth and innovation potential of the gaming sector.

Hence, in light of this, there is a pressing need to expedite the constitution of SRBs under the IT Rules and to ensure timely implementation of the amended IT Rules. A coherent and harmonized regulatory approach anchored by MeitY will be critical in addressing sectoral risks while facilitating responsible and sustainable growth of the online gaming industry.



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KEY CONTACTS



Avisha Gupta

Partner

Email - avishag@luthra.com



Somya Yadav

Senior Associate

Email - syadav@luthra.com



Arnav Gulati

Associate

Email - a.gulati@luthra.com

OFFICES



NEW DELHI

1st and 9th Floors, Ashoka Estate,
24 Barakhamba Road, New Delhi - 110 001
T: +91 11 4121 5100 F: +91 11 2372 3909
E: delhi@luthra.com



MUMBAI

20th Floor, Indiabulls Finance Center,
Tower 2 Unit A2, Elphinstone Road,
Senapati Bapat Marg, Mumbai - 400 013
T: +91 22 4354 7000
F: +91 22 6630 3700
E: mumbai@luthra.com



BENGALURU

3rd Floor, Onyx Centre, No. 5, Museum Road,
Bengaluru - 560 001
T: +91 80 4112 2800 / +91 80 4165 9245
F: +91 80 4112 2332
E: bengaluru@luthra.com



HYDERABAD

Serene Towers,
House No. 8-2-623/A,
Road No. 10, Banjara Hills,
Hyderabad, Telangana - 500034
T: +91 40 7969 6162
E: hyderabad@luthra.com



CHENNAI

Prestige Palladium Bayan,
8th Floor, Greams Road, Nungambakkam Division,
Egmore, Chennai - 600 006,
Tamil Nadu
T: +91 95604 88155
E: chennai@luthra.com