

Poker Table to Courtroom: Gamers Challenge the Online Gaming Law

Professional player's plea argues legislation impinges on right to livelihood, defies settled law

Sugata Ghosh

Mumbai: A seasoned gamer has shed his poker face to attack the new gaming law. A professional poker player of 'national repute' has moved the Supreme Court on the grounds that the blanket ban imposed on real money games by the yet-to-be-notified statute hurts his income and livelihood as well as impedes his right to pursue a profession.

The gamer in question, Vaibhav Arora, who is also a practising advocate, has joined a few other players in a turn of events where gamers, like gaming companies, have challenged the law, albeit for a different reason. While the gaming firms are defending their right to carry out a business, the gamers argue that the law curtails their fundamental right. Of the nine petitions pending before the Supreme Court relating to the new law, 3 are by gaming companies, 4 by individual gamers, and two suits are public interest litigations seeking action against the gaming platforms.

Arora, in his petition, which was admitted by the apex court on December 19, has claimed that "his legal practice equips him with analytical acumen and skills that translate directly into his poker career."

Challenging the applicability of gambling legislation to skill-based games like poker, the petitioner said that he competed in over 1,600 online tournaments across multiple platforms, generating "documented cumulative profits exceeding ₹23.32 lakh, with a con-



sistent return on investment of over 100% across accounts.

Multiple petitions have underscored the point that the 2025 law, which is being contested, is against the settled legal position for close to seven decades that games of skill are legitimate business activities protected by Article 19(1)(g) of the Constitution and wagers placed on games of skill does not amount to gambling. In this context Arora claimed that his profit trajectory, with minimal downswings, reflects disciplined strategy, mathematical proficiency, and risk management, which are "hallmarks of skill-based gaming." Skill-based games are outside the purview of Public Gambling Act, 1867, a central legislation to prohibit public gambling in India.

MULTIPLE ARGUMENTS

According to Jay Sayta, technology & gaming Lawyer, "A 3-judge

bench of the Supreme Court is likely to decide the constitutional validity of the Promotion & Regulation of Online Gaming Act, 2025 (PROGA) in the batch of cases filed by online gamers and online money gaming companies, where various issues pertaining to legislative competence on matters per-

LEGAL PILE-UP



Of the nine petitions before the SC on the new gaming law, three are by companies, four by individual gamers, and two are public interest litigations

taining to the online sphere, scope and definition of gambling and betting as well as central government's powers to completely ban online games and tournaments for stakes vis-a-vis fundamental rights of players pursuing their livelihood and companies right to run such businesses will be heard.

Two PILs, the first one seeking action against e-sports and social games masquerading as betting apps and the second one seeking investigation and action against online betting companies and celebrities endorsing them are also tagged with these batch of cases. The next date of hearing in the matter is 21st January, 2026."

A common refrain across petitions has been that the new Act was passed without any legislative competence as betting and gambling fall squarely within Entry 34 of List II (State List) of the Constitution's Seventh Schedule, which vests exclusive legislative competence in state legislatures.

Arora also pointed out that the law was passed without any pre-legislative consultation policy and did not invite any comments from the stakeholders concerned and the public at large.

Besides the new law that sounded the death knell for the industry, most of the top gaming companies withdrew their service following a GST of 40% on 'money deposited' in real money games which were clubbed with sin goods and luxury items after the re-jig in the indirect tax rates. The 40% rate became effective from September 22, 2025.

The legislation is well-balanced, and it takes care of all aspects on which constitutionality of a legislation can be challenged. There is hardly any aspect on which it can be doubted that it will not survive constitutional challenge.

RERA Act too pinched many who were playing others' money, but its validity was upheld. Same is expected to be the outcome of online gaming law.

