

- III. The Petitioner, in the present Writ Petition, has, *inter alia* sought for a Writ in the nature of Mandamus or any other appropriate writ, order or direction:
- a. Issue a *Mandamus* or any other Writ, Order or direction of the like nature to the Respondents to consider the Representation dated 12th September, 2020 submitted by Petitioner produced as **Annexure – A** and take appropriate action in accordance with law;
 - b. Issue a Writ of *Mandamus* or any other Writ or Order or Direction of a like nature and direct the Respondents No.1 State of Karnataka to ban all forms of Online Gambling and Online Betting of any nature until unless an appropriate regulatory regime is established and regulations are framed by Respondent regulating the functions and activities of all forms of Online Gambling and Online Betting;
 - c. Pass such other and incidental orders as are appropriate under the facts and circumstances of the case.

On the following set of;

BRIEF FACTS

1. The Petitioner (the "**Petitioner**") is a citizen of India and a public-spirited citizen. She has been espousing the cause of ban on online gambling by forming an unregistered association in public interest.

Meaning "The gambler's wife is left forlorn and wretched: the mother mourns the son who wanders homeless"

2. It is submitted that pre-independence statutes prohibited any game based on chance or probability except lotteries. With the enforcement of the Constitution of India came Entry 34 of List-II of the seventh schedule of the Constitution, which empowers the State Governments to legislate on matters concerning gambling and betting. Since there is no central uniform legislation on the subject, the States under entry 34 of List-II of the seventh schedule of the Constitution have enacted legislation for prevention of gambling. The Public Gambling Act, 1867 (**'PG Act'**) has been adopted by several states and have enacted their own legislation to regulate gaming / gambling activities within its territory ("Gambling Legislations" or "Gaming Legislations"). However, the State of Karnataka has neither enacted any law on betting or gambling nor adopted and applied any central legislation.
3. State of Karnataka, from the very beginning neither enacted nor adopted any anti-gambling legislation. However, the State, by way of enactment of Karnataka State Police Act, 1963 (**"KP Act"**) has specifically defined and dedicated Chapter 7 for prevention of Gaming. Section 2 is definition clause defining following terms.

Sub Section (3) “**common gaming-house**” means a building, room, tent, enclosure, vehicle, vessel or place in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, or keeping such building, room, tent, enclosure, vehicle, vessel or place, or of the person using such building, room, tent, enclosure, vehicle, vessel or place, whether he has a right to use the same or not, such profit or gain being either by way of a charge for the use of the instruments of gaming or of the building, room, tent, enclosure, vehicle, vessel or place, or otherwise howsoever or as subscription or other payment for the use of facilities along with the use of the instruments of gaming or of the building, room, tent, enclosure, vehicle, vessel or place for purposes of gaming;

Sub Section (7) “**gaming**” does not include a lottery but includes all forms of wagering or betting in connection with any game of chance, except wagering or betting on a horse-race ¹ [run on any race course within or outside the State]¹ , when such wagering or betting takes place,—

- (i) on the day on which such race is run; and
- (ii) in an enclosure set apart for the purpose in a race course by the licensee of such race course under the terms of the licence issued under section 4 of the Mysore Race Courses Licensing Act, 1952 (Mysore Act VIII of 1952); and]
- (iii) between any person being present in such enclosure, on the one hand and such licensee or other person licensed by such licensee in terms of the aforesaid licence on the other in such manner and by such contrivance as may be permitted by such licence.

Explanation. - In this clause,—

- (i) **'wagering or betting'** includes the collection or soliciting of bets, the receipt or distribution of winnings or prizes, in money or otherwise, in respect of any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution;
- (ii) **'game of chance'** includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined, but does not include any athletic game or sport;

Sub Section (11) "**instruments of gaming**" includes any article used or intended to be used as a subject, or means of gaming, any document used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming;

- 4. Chapter VII of the Karnataka State Police Act, 1963 has over encompassing provision governing the wagering and betting in the traditional form of Gaming. However, this legislation specifically lacks in regulating online gaming or prevention of online gambling, wagering and betting. These Gambling Legislations were enacted prior to the advent of virtual / online gambling and therefore primarily refer to gambling activities taking place in physical premises, defined as "gaming or common gaming houses".
- 5. The most common forms of gambling in India, from time immemorial, are the many versions of card games like teen patti (akin to flush), poker, rummy and bridge, as well as sports betting. With the dawn of technology, these games have effectively extended their reach and popularity via the digital medium. Most

popular online gambling sites in India are card games sites hosting Rummy and Poker tournaments. The Gambling Legislations were enacted when digital media and internet were uncommon and its reach was not as far as it is today. The Gambling Legislations deal with gambling in the context of a physical enclosure, termed a “common gaming houses”. Therefore, when these Gambling Legislations are read in the context of online and digital gambling, their interpretation and applicability get complex.

6. The legislation governing electronic and technology interface in India is the Information and Technology Act, 2000. Section 2 of the Information and Technology Act, 2000 has defined various terms which has bearing in the subject matter – “Online Gaming” of this Public Interest Petition.

Section 2, Sub Section 1, Clause (ha) – “**Communication device**” means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;

Section 2, Sub Section 1, Clause (i) “**Computer**” means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

Section 2, Sub Section 1, Clause (j) “**Computer Network**” means the inter-connection of one or more computers or computer systems or communication device through– (i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and (ii) terminals or a complex consisting of two or more interconnected computers or communication device whether or not the inter-connection is continuously maintained;

Section 2, Sub Section 1, Clause (k) “**Computer Resource**” means computer, computer system, computer network, data, computer data base or software;

Section 2, Sub Section 1, Clause (l) “**Computer System**” means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

7. It is submitted that use of Computer, Computer Network, Computer Resource, Computer System and Communication Device for gaming purposes which has no application of “**skill**” but depends only on “**chance**” the Respondent No.2 and 3 should read the provisions of Karnataka State Police Act, 1963 along with provisions of Information and Technology Act, 2000 for prevention of gambling.

8. The Hon'ble Supreme Court of India in **State of Bombay v. R.M.D. Chamarbaugwala, AIR 1957 SC 699** has interpreted the words "mere skill" to include games which are preponderantly of skill and have laid down that (i) the competitions where success depends on substantial degree of skill will not fall into category of 'gambling'; and (ii) despite there being an element of chance, if a game is preponderantly a game of skill, it would nevertheless be a game of "mere skill". Further the courts in catena of cases have clarified that "*whether a game is of chance or skill*" is a question of fact to be decided on the facts and circumstances of each case. Thus, it may be possible that games which satisfy the test of "skill versus chance" are not regulated under the Gambling Legislations and may be legally offered through the physical as well as virtual mediums (including internet and mobile), throughout India.
9. In the case of **State of Andhra Pradesh v. K. Satyanarayana & Ors AIR 1968 SC 825** the Supreme Court of India specifically tested the game of rummy on the principle of skill versus chance and held that Rummy was not a game entirely based on chance like the 'three-card' game (i.e. 'flush', 'brag' etc.) which were games of pure chance. It was held that Rummy was a game involving a preponderance of skill rather than chance. The Apex Court, based its conclusion on the reasoning that Rummy requires a certain amount of skill as the fall of the cards needs to be memorized, and the building up of Rummy requires considerable skill in holding and discarding cards. The chance element in Rummy is of the same level as that involved in a deal in a game of bridge. In all games in which cards are shuffled and dealt out, there exists an element of

chance, because the distribution of the cards is not according to a predetermined pattern, but is dependent upon how the cards find their place in the shuffled pack. In this judgment the SC has also passingly observed that bridge is a game of skill. However, the Hon'ble Kerala High Court in the case of **Ramachandran K v/s. The Circle Inspector of Police 2019 (1) KHC 627** has held that playing rummy for stakes would amount to the offence of gambling under the Kerala Gaming Act, 1960. Arguably, games of skill are exempted from the prohibitions under most State anti-gambling laws, irrespective of whether they are played for stakes or not. A review petition was filed against the order of the High Court of Kerala in the matter of **Play Games 24X7 Pvt. Ltd v Ramachandran K & Another numbered as RP No. 514 of 2019 in WP (C) 35535/2018**. However, the Hon'ble Court dismissed the petition, and held that whether playing Rummy for stakes or not (including online Rummy) would amount to a violation of the Kerala Act would have to be seen on a case to case basis. The court held that:” What is the manner in which the games are conducted and how it is being conducted through online methods and what are the stakes involved in the matter are all issues which may arise for consideration.”

10. While the off-line Rummy has to be distinguished from online Rummy as there is element of regulation or monitoring on whether there is any skill is involved in the online game or is it more of a gambling.

11. Under the various gambling legislations, to qualify as a “common gaming house”, there should be (a) an enclosed physical premise such as a house or a tent; and (b) “instruments of gaming” kept or used in such enclosed physical premises for the purpose of accrual of profit or gain to the person owning, occupying, keeping such enclosed physical premises or using any such instrument of gaming in the enclosed physical premises; and (iii) profit or gain by way of charge for use of the same enclosed premises or “instruments of gaming” or otherwise. However, under certain Gambling Legislations, like Delhi, it may not be necessary for such “profit or gain” to accrue to the person owning, occupying or keeping such premises in order for it to qualify as a common gaming house for certain purposes/games only. “Instruments of gaming” means ‘any article used or intended to be used as a subject or means of gaming, any document used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect to any gaming.’ In today’s context, there is a school of thought that believes that computer terminals used for gambling and servers on which gambling takes place and related e-records are maintained also constitute “instruments of gaming”.
12. On a perusal of the definition of “common gaming house” in general under the Gambling Legislations, and in particular the KP Act, it seems that the intention of the legislatures is to impose restrictions on the use of a physically enclosed premises for the purposes of making “profit or gain” from the use of such premises. Thus, a

private house may not ideally constitute a “Common Gaming House”, if there is lack of intent on the part of the owner to derive any profit or gain from the use of his house for gambling purposes. Extending the same analogy to the digital world, when a person is accessing online gambling websites from his house, arguably, it may not be a “common gaming house”.

13. The situation may however be different where such gambling activities are carried out in places such as clubs or cyber cafés, where the cyber cafés derive profits by allowing the use of the computer terminals (which may be caught within the scope of “instruments of gaming”). Most of the Gambling Legislations refer to “any place” in the definition of “Common Gaming House”. In the absence of a specific exclusion, the definition could include a server/portal/ website providing means of gaming. Taking money for providing the online medium to play games may also fall within the ambit of profiteering from providing and maintaining “Common Gaming Houses”. To put an end to this confusion, the online rummy websites had approached the Supreme Court to clarify whether the Gambling Legislations cover online gambling portals.

Re: Law Commission Report

14. The first instance when the Law Commission of India (“Law Commission”) was entrusted with the task of simplifying and streamlining the Gaming Legislations was in 2014. This culminated in the 20th Law Commission issuing a report titled “Obsolete Laws: Warranting Immediate Repeal” – An Interim Report” (“2014

Report”). In the 2014 Report, the Law Commission observed that the Public Gambling Act, 1867 was an obsolete law in need of immediate repeal. Most of the State Enactments are based on the provisions of the Public Gambling Act. Thus, it construed that the Law Commission acknowledged the need to overhaul the outdated Gaming Legislations governing the industry in India. Thereafter, following the developments in some highly- reported match fixing matters in India, the Supreme Court appointed a three – member committee (“Lodha Committee”) to, among other things, make recommendations necessary to prevent sports frauds and conflicts of interests in the game. The Lodha Committee recommended the legalization of betting in cricket in their report.

15. Meanwhile the Supreme Court of India in ***Board of Control for Cricket vs. Cricket Association of Bihar and Others, (2016) 8 SCC 535*** has directed Law Commission of India to consider the recommendations Hon’ble Justice Lodha Committee Report. Following this, recently, the Law Commission of India headed by Hon’ble Justice B. S. Chauhan (Retd), a former judge of the Hon’ble Supreme Court was mandated by the Government of India to make recommendations on the possibilities of legalization of sports betting in India and the review of Gaming Legislations with a view to provide for a Central licensing regime. The Law Commission has already taken comments and held active discussions with all stakeholders. In the appeal of the Law Commission dated 30th May, 2017, they invited recommendations for legalizing betting and gambling. They set out specific queries for the stakeholders to respond to. Strong legal and business cases

have been submitted in support of a regime to legalise the already burgeoning gambling industry in India. The Law Commission of India (the “**Commission**”) finally released the highly anticipated report on legalizing betting and gambling in India (“**Report**”) in July, 2018. However, following apprehensions after the release of the Report, the Commission released a press note to emphasize that its primary recommendation was to ban betting and gambling in India. However, in the event that the Central and State Governments did consider regulating it, certain measures to combat player fraud, enhancement and curbing problem gambling had been enlisted in the Report.

16. The Report finally provided the following recommendations for the introduction of a regulatory framework for betting and gambling in India:

a) Constitutional Framework: The Report suggests that central Government derive the legislative competence to legislate on betting and gambling activities (which are presently on the State list, as discussed above), through an alternate entry governing ‘Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication,’ which falls under the Central list of the Constitution. Alternatively, the report proposes that Parliament may enact a model law which could then be adopted by individual States, or Parliament legislate on these subjects in exercise of its powers under Article 249 or Article 252 of the Constitution of India

- b) Eligibility of a license: The report has cautioned that gambling and betting should only be permitted to be offered by Indian licensed operators 'operating from within India'.
- c) Authority: While the report suggests that licenses should be awarded by a 'game licensing authority,' it does not provide any recommendations on who such an authority shall comprise of, or how it shall operate.
- d) Foreign Direct Investment: The Commission also recommends that the Foreign Direct Investment Policy under the Foreign Exchange Management Act, 1999 should be relaxed to allow investment in the industry. Currently, foreign direct investment is prohibited in gambling and betting, including in casinos.
- e) Taxation: While the Report did recommend that any income derived from betting and gambling be taxed under the Income Tax Act, 1961 and the Goods and Services Tax Act, 2017, this aspect is already covered under the prevailing tax laws. The Report remains conspicuously silent on any detailed recommendations in tune with the industry representations. This was a key concern for the Indian gaming industry, which the Report has failed to address.
- f) Amendments to existing laws: The report has recommended that certain other laws would need to be amended to bring the gambling industry within a regulatory framework.

Amendment to the existing Information Technology (Intermediary Guidelines) Rules, 2011 to bar intermediaries from transmitting only illegal gambling, allowing licensed operators to host gambling related content on platforms, as well as advertise their products f

Introduction of an exception for licensed betting and gambling activities within the National Sports Development Code of India, 2011, introduced by the Ministry of Youth Affairs and Sports. The Code aims to prevent betting and gambling in sports.

Section 30 of the Indian Contract Act, 1872, renders wagering contracts void and unenforceable. The Report proposes that Section 30 be amended to exempt transactions over licensed operators' portals, or casinos, from the definition of 'wagering agreements.' f

Match fixing and other sporting fraud be made criminal offences with severe punishments

17. It is important to note that the Report notes as follows regarding the Virtual Currencies:

“The Reserve Bank of India by way of Circular dated 6th April outlawed the use of VC201. The circular was challenged by the Internet and Mobile Association of India. The Supreme Court while entertaining the petition refused to grant any

interim relief to the petitioner vide Order dated 3 July 2018²⁰². Nonetheless the size of global market dealing with VC in Gambling is evident by the recent case of the Hong Kong police, where they caught people using online portals including some instant messaging applications to gamble with the help of VC of the likes of Bitcoin. The Philippine Gaming Regulator, PAGCOR is facing a similar problem, losing millions to illegal and unregulated gambling every year.”

18. The Hon'ble Supreme Court in the case of **Internet and Mobile Association of India v Reserve Bank of India (2020 SCC Online SC 275)**, struck down a Reserve Bank of India (RBI) Circular that had effectively imposed a ban on virtual currency (VC) trading in India. With Virtual Currency or Bitcoins now having become legal, there is greater need to regulate Online Gambling.

19. The Hon'ble Madras High Court in the case of **D. Siluvai Venance Vs. State of Tamil Nadu: 2020(3) MLJ (Cri) 710** has observed thus

“41. At this juncture, this Court is inclined to share the modus operandi of such online games.

42. If X and Y want to play a game, both of them have to bet a sum of Rs. 10/- (Say). The winner will get the amount that he put in place, i.e., Rs. 10/- and in addition to that, he will get an additional sum, Say 75% that was put in place by the opponent, being the prize amount. The balance, i.e., 25%, will be credited to the account of the particular online gaming site. The loser will loose everything.

43. If a group of persons (Say 10) want to play a game, each one of them have to bet a sum of Rs. 10/- (Say). At the end of the game, the Winner will get his amount as well as 100% of his bet amount, being the prize money. The Runner will get his amount as well as 70% of his bet amount, being the prize money. The losers will not only loose the game, but also loose Rs. 10/- that was put in by them. A rough calculation for the aforesaid scenario will give a whopping sum of Rs. 63/- to the online gaming site, while awarding Rs. 20/- to the Winner and Rs. 17/- to the Runner. Naturally, a player, if he loses his amount, will try to meet out his loss by playing again and again.

44. To be noted, if these set of unemployed youth, who are also under frustration, if get trapped into these elements, may go to any level to meet their loss. The most dangerous thing for any Society is educated criminals. If a knowledgeable person turns out to be a criminal, it would be a havoc on the society. Nowadays, we are also witnessing Graduates involving in chain snatches and other dacoity cases.

45. Keeping these aspects in mind and to regulate and monitor such virtual games, some of the States have amended their prevailing Gaming Acts.

46. The Sikkim Online Gaming (Regulation) Act, 2008, mandates that license has to be obtained for conducting such online games, within the State's boundaries.

47. The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2016, has excluded the staking of money on games of skill from the ambit of gambling. The Act also defines what are the games of skill and also listed them. Of course, license has to be obtained for conducting such games, within its boundaries.

48. The Telangana Gaming (Amendment) Act, 2017, prohibits all forms of gaming for money, be it games of skill or games of chance. In fact, the Government of Telangana has further moved a Bill to amend the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986, by including "Gaming Offender", who commits or abets the commission of offences punishable under the Telangana Gaming Act, 1974.

49. When the menace of lottery was at its peak, sucking the blood and life of several families, the Government of Tamil Nadu, in the year 2003, has taken a rigid stand, with an iron hand and banned the sale of all lotteries, including online, within the territory of the State, by passing the Government Order in G.O. Ms. No. 20 Home (Courts II) Department dated 08.01.2003. This Government Order, though challenged before the Courts of law, still holds the field. By virtue of this order, the Government has thus prevented the suicidal deaths, who have not only lost their hard earned money but also their family peace and reputation, in the State.

50. Similarly, when the menace of charging exorbitant interest, by way of 'daily vatti', 'hourly vatti', 'kandhu vatti', 'meter vatti', 'vattiku vatti', was in its prime, the Government of Tamil Nadu, in the year 2003, has enacted Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, thereby, wiped the tears of the affected people at large.

51. Therefore, this Court hopes and trusts that this Government shall take note of the present alarming situation and pass suitable legislation, thereby, regulating and controlling such online gaming through license, of course, keeping in mind the law of the land as well as the judicial precedents in this regard. This Court is not against the virtual games, but, the anguish of this Court is that there should be a regulatory body to monitor and regulate the legal gaming activities, be it in the real world or the virtual world. Needless to say that if the Government intends to pass a legislation in this regard, all the stakeholders should be put in notice and their views should be ascertained.”

20. A Division Bench of the Hon'ble Gujarat High Court in the case of **Amit M. Nair Vs. State of Gujarat** in R/Writ Petition (PIL) No. 146 of 2020 Decided On: 29th September, 2020, has directed the State of Gujarat as follows:

I) We direct the State of Gujarat to consider this writ application as a representation. If the online games involve gambling and if they are being played in the State of Gujarat, then it is expected of the State

to deal with the same appropriately as gaming is a subject matter of List II of the Schedule VII of the Constitution of India.

- II) If any website is operating in the State of Gujarat or is engaged in any gambling games, the State shall deal with the same in accordance with law, rules, regulations and the policy, as may be applicable.
- III) The State shall also examine whether such games result in money laundering or violation of laws relating to foreign exchange as well.
- IV) We expect the State Government to promptly look into the aforesaid issues and take an appropriate decision in accordance with law in larger public interest before it is too late.

21. This Hon'ble Court in a number of cases has pointed out the need for a regulatory regime for the offline betting and gambling activities carried out at recreational clubs. A Division Bench of this Hon'ble Court in the case of **Sanna Adike Belegarara Recreation Association and Ors. vs. State of Karnataka and Ors ILR 2000 KARNATAKA 4822** has held that

“8. As far as the judgment in Rama Recreation Association's case, supra, interpreting the definition under Section 2(14) and (15) of the Karnataka Police Act is concerned, no exception can be taken to the view expressed by the learned Judge. But, as our learned brother Justice Thakur has pointed out in the reference order, there is every possibility of the public gaining entry on payment of certain fee to these societies registered ostensibly for the purpose of running recreational clubs for members. The scope for misuse of the premises

and infringement of the objectives with which the societies are formed cannot be ruled out. But, having regard to the clear-cut definitions under Section 2(14) and (15) of the Karnataka Police Act, the expression "Public" therein cannot be reasonably construed to cover members of the club or their genuine guests. The hallmark of a Member's Club or an Association of members is that all the members have an equal stake in it, their internal management vests with the members and those who are in effective management are agents or trustees of the members. We therefore find no legal basis to doubt the correctness of the view expressed in Rama Recreation Association's case, supra. **We also agree with the learned referring Judge that it is desirable to evolve a regulatory mechanism to ensure that the societies running the clubs do not transgress their limits and indulge in objectionable activities. While separate legislation may be necessary for this purpose, the provisions in Karnataka Police Act and other allied enactments and the provisions of Cr. P.C. could be pressed into service to check the unlawful activities that may be indulged therein and to prevent public nuisance. The authorities concerned can very well verify whether the so-called Members' Club is only a facade for public amusement and if there is enough material in support of such conclusion, action as per law can be taken. At the same time, it is made clear that the police authorities concerned should not take law into their own hands and harass even genuine clubs carrying on bona fide activities by organising frequent raids. While surveillance and checks cannot be ruled out, the endeavour should be only to ensure that unlawful activities amounting to offences are not carried on in the guise of running recreational clubs or associations. For instance, in one of the writ petitions, a stand has**

been taken by the respondents that even playing the game of Rummy amounts to gambling activity. We are surprised that such a stand is taken even thirty years after the decision of the Supreme Court. At the same time, as observed by the Supreme Court in that very decision (referred to supra), if there is betting or some other form of gambling associated with the Game or Rummy is allowed to be played in the club as a source of making profit or gain by certain individuals running the show, it might perhaps cross the dividing line and fall in the objectionable zone of gambling house. Ultimately, we would like to stress that the authorities concerned should not act with a presumption that every society registered for the purpose of running the club will be indulging in unlawful activities and with the realisation that the power of surveillance and raids is to be used in bona fide exercise of powers to enforce the provisions of the Act, but not to harass genuine clubs carrying on lawful activities.”

22. Thus, when there is a felt need for regulating online gambling, the State of Karnataka has not created any regulatory regime and framed any regulations for regulating the online games, gambling or betting of any nature.
23. Hence, the Petitioner submitted a representation to the Respondent requesting to ban all forms of online betting and gambling. A copy of the representation dated 12th September, 2020 submitted to the Respondent is referred to supra and produced as Annexure-A. The

Petitioner has submitted a reminder letter too on 24th October, 2020 which is produced herein as **Annexure-B**.

24. However, there is no response till date. The State of Karnataka remains in regulatory vacuum. The gullible and hapless sections of society, particularly, the youth are falling prey to online gambling and betting in the midst of pandemic situation. Hence, the Petitioner has approached this Hon'ble Court.

Declaration:

25. The Petitioner has filed the present Petition in public interest. The Petitioner does not stand to derive any personal advantage or benefit, except that it serves the larger societal good, if the relief sought for in the petition is allowed.
26. having no other alternative efficacious remedy, has invoked the Original Writ jurisdiction of this Hon'ble Court. The Petitioner also submits that it has not initiated any other proceedings on the same cause of action either before this Hon'ble Court or in any other court or authority or is pending before any authority, Court or Tribunal, Hence the petitioner is filing this petition on the grounds specifically set out hereinafter, each of which is independent and without prejudice to one another on the following among others;

GROUNDNS

27. Because there is complete regulatory vacuum as far as the online betting and gambling are concerned. There is no regulatory body or governmental structure to regulate and monitor online gambling and betting. As a result, the vulnerable sections of society, particularly the youth, adolescents and even children are prone to hazardous and predatory situation amidst this pandemic.

28. Because various High Courts, particularly, the Hon'ble High Courts of Gujarat and Tamil Nadu have directed their respective jurisdictional state legislatures to explore the possibilities of regulating the regime. In fact, in these states there exists a central legislation. However, in Karnataka there is neither central legislation nor any regulatory regime.

29. Because the State has no mechanism to monitor whether any online game or activity is a game of chance or involves skill. For instance, it is well-settled today that the Game of Rummy is a game of skill. However, what holds good for the game in the offline mode may not be true for the online mode. The State has not bothered to create any monitoring mechanism to ascertain whether the online Rummy offered by various virtual gaming platforms. In fact, admittedly many other puritan games of chance are in vogue on the internet, which can be very easily accessible and played by persons of all age groups including the children. However, the State has not taken any action to regulate the same.

30. Because it is well settled that the State cannot be compelled by a judicial pronouncement to make a legislation. However, the Writ Courts have ample power to direct the State to regulate and monitor an activity impacting the social and economic health of the society, particularly in the pandemic situation.

31. **Ground/s for Interim Prayer**

Because in the present pandemic situation, vulnerable sections of society, particularly, youngsters and children have access to internet *via* mobile phones and laptops. Realising this precarious situation, many states have brought about legislation and regulatory regime to ban online gambling and betting. The State of Tamil Nadu has promulgated an Ordinance on 20th November, 2020, which is produced herein as **Annexure-C**. However, the State of Karnataka remains blissfully oblivious to regulating all forms of betting, wagering etc in cyber space using computers or any communication device or resource. The State cannot shut itself to the precarious situation. Great injustice will be caused in case the illegal and unregulated activities are not halted by this Hon'ble Court. The loss so caused cannot be compensated with money. Per contra, no hardship or loss will be caused to the Respondents or others. Balance of convenience is in favour of the Petitioner and against the Respondents.

32.

PRAYER

WHEREFORE, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Issue a *Mandamus* or any other Writ, Order or direction of the like nature to the Respondents to consider the Representation dated 12th September, 2020 submitted by Petitioner produced as **Annexure – A** and take appropriate action in accordance with law;
- B. Issue a Writ of *Mandamus* or any other Writ or Order or Direction of a like nature and direct the Respondents No.1 State of Karnataka to ban all forms of Online Gambling and Online Betting of any nature until unless an appropriate regulatory regime is established and regulations are framed by Respondent regulating the functions and activities of all forms of Online Gambling and Online Betting;
- C. Pass such other and incidental orders as are appropriate under the facts and circumstances of the case.

Interim Prayer

- D. Pending final adjudication of the present petition on merits, this Hon'ble Court may be pleased to Issue a Writ of *Mandamus* or any other Writ or Order or Direction of a like nature and direct the Respondents No.1 State of Karnataka to ban all forms of Online Gambling and Online Betting of any nature until unless an appropriate regulatory regime is

established and regulations are framed by Respondent
regulating the functions and activities of all forms of Online
Gambling and Online Betting;

Place: Bengaluru
Date: November, 2020

Advocate for Petitioner
(Shridhar Prabhu & Dore Raj)

Address for service:

Navayana Law Offices
#205, II Floor, Triguna Icon
Wilson Garden, Hosur Main Road
Bengaluru - 560 027
Ph: 98452 26526
Email: shridhar@navayana.in

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
(Original Jurisdiction)**

W P No. of 2020 (GM RES)

BETWEEN

SHARADA D R

... Petitioner

AND

STATE OF KARNATAKA & OTHERS

... Respondents

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Place: Bengaluru
Date: 17th November, 2020

Advocate for Petitioner
(Shridhar Prabhu Dore Raj)

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
(Original Jurisdiction)

W P No. of 2020 (GM RES-PIL)

BETWEEN

SHARADA D R

... Petitioner

AND

STATE OF KARNATAKA & OTHERS

... Respondents

LIST OF DATES AND EVENTS

DATES	EVENTS
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SYNOPSIS

Place: Bengaluru
Date: 17th November 2020

Advocate for Petitioner
(Shridhar Prabhu & Dore Raj)