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👤 Rajesh Kumar | 📅 Aug 22, 2025

Online Gaming Bill 2025

constitutional challenge

blanket ban

games of skill

games of chance

Indian gaming industry

Supreme Court

Legal experts caution that the sweeping ban on all online money games may not withstand constitutional scrutiny



Games of chance and wagers have fascinated people for centuries. Ancient texts like the Mahabharata narrate how Yudhishtira gambled away his wealth and family in a dice game against Duryodhana. Over time gambling moved from dice and animal fights to card games, lotteries and horse races. In modern India, the same instinct has shifted online with fantasy sports, poker and rummy becoming ‘daily pastimes’ for millions.

Now this booming industry faces its toughest challenge. On Thursday, the Rajya Sabha passed the Promotion and Regulation of Online Gaming Bill, 2025. The proposed Bill seeks to ban all online games that involve money. It does not distinguish between games of skill and games of chance. Industry leaders and experts fear that this single definition will wipe out even those platforms that had survived legal scrutiny so far.

The government says the move is driven by national security concerns and social harms. Officials argue that many platforms use digital wallets and cryptocurrencies in ways that enable money laundering and fund transfers to offshore entities. Some are even accused of acting as covert messaging spaces for terror groups. The Ministry of Home Affairs gave inputs to the draft law and the IT Ministry presented it to Parliament. A senior official admitted that the government is prepared to take a revenue hit for what it calls a matter of “larger public interest.”

The Bill defines an “online money game” in sweeping terms. It includes any service where a player pays fees, deposits money or stakes valuables with the expectation of winning rewards. It covers both monetary and non-monetary gains. The only exception is e-sports, which are treated as competitive sports. By framing the Bill in this way, the government has ensured that almost every popular platform, from fantasy leagues to rummy apps, falls within the ban.

The industry had long argued that games of skill such as rummy or fantasy cricket should be treated differently from games of pure chance like lotteries. The Bill closes that debate by grouping them under a single category.

The Bill also creates separate definitions for “online social games.” These are games designed for recreation or education. They may charge a subscription or access fee but cannot involve stakes or wagers.

The Bill proposes harsh penalties. Offering online money games could mean up to three years in jail and a fine of Rs 1 crore. Celebrity promoters and influencers face two years in jail and a penalty of Rs 50 lakh. Banks and financial institutions will be barred from processing payments for such platforms. The definition of “online money game” is broad enough to cover leading companies like Dream11, Winzo and MPL.

There is no doubt that the stakes are high. India’s online real money gaming sector was projected to become a nine Billion dollar market by 2029. It has drawn foreign investment of more than Rs 25,000 crore and supports over two lakh jobs. A FICCI–EY report noted that in 2024 alone, companies earned \$2.7 Billion and over 155 million Indians engaged with real money games. Yet the new Bill could cut this growth short.

At the same time, the government wants to encourage e-sports and game development. These will be recognised as legitimate sports and supported through new platforms and policies. A central authority will oversee competitive e-sports and ensure compliance with the law. Social and educational games may charge subscription or access fees but cannot involve wagers.

The Bill also grants sweeping powers of search and seizure. Authorised officers can enter physical premises or digital spaces and override access controls to seize evidence without a warrant.

The introduction of the Bill marks a sharp shift from two years ago when the IT Ministry introduced online gaming rules that leaned towards self-regulation [IT (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023 (ITAR 2023)]. These rules introduced the concept of an “online

real money game” and allowed certain games to be recognised as “permissible,” provided they did not involve wagering, were permitted by state law and were restricted to users above 18 years.

Dhruv Nath, Partner at S&R Associates, cautions:



The Bill imposes a blanket ban on money games, regardless of whether they are based on skill or chance. Given offline games of skill for money continue to be permitted and are not prohibited under various state laws, the rationale for imposition of a blanket ban on online money games (including games of skill) will be difficult to justify. It will be interesting to see the court’s view on the distinction above vis-à-vis the argument of public interest – if such games continue to flourish offline, the ban on online money games of skill appears to be arbitrary, and may not withstand constitutional challenge. Further, the enactment may result in the creation of illegal markets - this will need to be monitored.

Constitutional Challenge

The Bill, if implemented, is almost certain to face constitutional challenge. The promoters and founders of online gaming companies are considering to challenge the Bill of being violative of Constitutional safeguards.

Article 19(1)(g): Right to Trade and Profession

The most immediate ground of challenge arises from Article 19(1)(g), which guarantees the right to practice any profession or to carry on any occupation, trade or business. While the Centre can impose reasonable restrictions under Article 19(6) in the interest of public order, morality or general welfare, the question will be whether a complete prohibition, rather than regulation, is a proportionate restriction. Courts will have to consider whether the government could have achieved its stated objectives of curbing money laundering, addiction and national security risks through stricter regulation instead of an outright ban.

Aaron Kamath, Leader – Tech and Digital Media Practice at Nishith Desai Associates, says that the Bill’s sweeping nature is bound to face heavy judicial scrutiny. He says:



The blanket ban on online money games may likely face significant constitutional challenges and scrutiny on multiple grounds. It can be argued that the Bill possibly violates Article 19(1)(g) by imposing a complete prohibition on skill-based online games that Courts have previously recognised as legitimate business activities, without demonstrating how such a blanket ban constitutes a ‘reasonable restriction’.

Articles 245 and 246: Distribution of Legislative Powers

The federal structure of the Constitution provides another argument for challenging the Bill. Article 245 empowers Parliament to make laws for the whole of India and State legislatures to make laws for their

respective territories. Article 246 read with the Seventh Schedule distributes powers between the Union and the States through three lists. Entry 34 of List II (State List) expressly places “betting and gambling” under State jurisdiction. Similarly, Entry 62 of List II allows States to impose “taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.” On this basis, the power to legislate on gambling and betting has traditionally been seen as resting exclusively with the States.

In constitutional terms, the doctrine of “pith and substance” is often applied to resolve such conflicts. If the true nature of the Bill is found to be prohibition of gambling, then it arguably falls within the State List and beyond Parliament’s competence. If, however, the pith and substance is found to be regulation of digital transactions, internet safety, or interstate trade, the Centre’s may be able to defend its competence. The fact that the Bill covers activities across States and involves digital payments may tilt the balance towards Centre’s competence.

In this regard, Kamath says: *“The Centre’s decision to legislate represents a shift from what has traditionally been a state subject. The Government justifies its competence through interstate commerce, trade and communication, one argument being that online gaming involves cross-border transactions beyond individual state jurisdiction. However, such exercise of power by the Centre could be seen as potential overreach into state legislative domains.”*

On the Centre legislating in a State subject, Nath says: *“For offline games, states have adopted their own gaming or gambling laws as this is a subject in the State List. The Centre has rationalised legislating on online gaming matters based on public interest – citing arguments of addiction, social evils, increasing suicides, and unlawful financial activities – and has assumed jurisdiction based on arguments of public health, consumer safety, public morality and financial sovereignty of the country. While these arguments may be looked upon favourably given the ease of access due to use of electronic devices, the proper procedure for the Parliament to legislate on matters in the State List must be followed as laid out in the Constitution (for example, under Article 249 of the Constitution of India, the Rajya Sabha would be required to approve the legislation on such matters of ‘national interest’ under the State List by a two-third majority).”*

Article 14: Equality Before Law

A further challenge arises under Article 14, which guarantees equality before the law. The Bill excludes e-sports from the definition of “online money games” and recognises them as legitimate competitive sports and bans all other real-money formats. Industry players argue that this distinction is arbitrary, as games like rummy and fantasy sports have also been judicially recognised as skill based. The classification, they contend, lacks a ‘rational nexus’ with the stated objectives of curbing money laundering and social harms.

Kamath notes that: *“It can also be argued that the Bill breaches Article 14 by creating a classification that bans online real money gaming while permitting other forms of wagering like horse racing, casinos in certain states, and betting - failing to establish any intelligible differentia or rational nexus for this distinction. There is judicial precedent that clearly distinguishes games of skill from games of chance, conflating the two categories despite Court rulings that have upheld the permissibility of daily fantasy sports platforms and rummy games.”*

Skill vs Chance

Beyond constitutional arguments, one of the arguments to challenge the Bill lies in the long-running debate of skill versus chance. For decades, courts have recognised that games predominantly based on

skill (such as rummy, horse racing, or even chess) cannot be equated with pure gambling.

In *State of Andhra Pradesh v. K. Satyanarayana* (1967), the Supreme Court held that rummy is predominantly a game of skill and not pure chance. The Court observed that unlike the “three-card game” or flush, rummy required memory, calculation, and judgment. This reasoning allowed rummy to be played in clubs so long as profits were not derived from the stakes. In *Dr. K.R. Lakshmanan v. State of Tamil Nadu* (1996), the Supreme Court went further, holding that horse-racing and betting by owners involved substantial skill and thus could not be treated as gambling. The Court held that any game involving a preponderance of skill fell under the “games of skill” exemption.

The Madras High Court in 2005 recognised chess and carrom as games of skill, even when fees were paid to participate. The Andhra Pradesh High Court later permitted rummy with stakes and held that organisers could charge fees without falling foul of gambling laws.

In *Play Games24x7 v. RBI*, the Bombay High Court held that skill-based games without real-money rewards could not be treated as gambling under the Foreign Direct Investment policy. In *Gameskraft Technologies v. Directorate General of GST Intelligence (DGGI)*, the Karnataka High Court held that rummy is a game of skill and does not amount to gambling under the GST Act.

The Bill’s timing is particularly significant because it runs parallel to ongoing litigation before the Supreme Court, which has become the arena for a broader battle over how online gaming should be classified and taxed. Earlier this year, a two-judge bench led by Justice J.B. Pardiwala consolidated more than 100 cases involving over 90 companies, casinos and turf clubs. Over five months, the bench held 31 days of hearings totalling about 100 hours before closing arguments on 12 August. A ruling is expected later this year. The proceedings followed more than two years of legal battles over state-level bans, appeals and successive tax demands by the DGGI.

The Supreme Court hearings revealed deep divisions within the industry. Senior advocates pointed out that the sector was split into six broad groups - (a) fantasy gaming firms, (b) horse racing and gambling ventures, (c) rummy and poker operators, and (d) three different sets of startups divided on whether they wanted tight regulation, no regulation, or a compromise. “The polarisation in the industry is too high,” one lawyer observed.

These divisions played out in court. Senior counsel Arvind Datar argued that fantasy sports involve skill and are not gambling. However, Additional Solicitor General N. Venkataraman argued that fantasy sports do not require knowledge of the actual game but depend on hopes pinned on athletes, unlike rummy or poker which involve demonstrable skill. In May 2025, Venkataraman told the Justice Pardiwala bench that games of skill remain such only until bets or wagers are placed on them; once money is staked, he argued, the activity becomes gambling.

Senior advocate Abhishek Manu Singhvi opposed this view and argued that courts consistently recognised the “ancient exception” for skill-based games and that staking money could not magically change chess or bridge into games of chance.

Vaibhav Kakkar, Senior Partner at Saraf and Partners, notes that the Bill blurs the well-established judicial distinction between games of skill and games of chance. He cautions that:



placing games of skill played for stakes in the same category as gambling not only raises constitutional concerns but also undermines decades of jurisprudence protecting such activities.

History

The earliest comprehensive law was the Public Gambling Act of 1867, a colonial statute that criminalised the keeping of a “common gaming house.” The Act was adopted by several states, including Uttar Pradesh, Uttarakhand, Madhya Pradesh, Haryana, Manipur and Punjab, often with minor variations. Its central idea was that chance, mutual consideration, and a prize were the three elements required for an activity to qualify as gambling. Games of “mere skill” were excluded under Section 12, and this exception has shaped much of the judicial interpretation that followed.

Over the years, some states charted their own course. Assam and Odisha adopted stricter regimes. The Assam Game and Betting Act, 1970 and the Orissa Prevention of Gambling Act, 1955 made no distinction between skill and chance; any game played for stakes was punishable.

In contrast, Goa took a liberal approach. By amending the Goa, Daman and Diu Public Gambling Act, 1976 in 1996, it allowed card rooms on offshore vessels and slot machines in five-star hotels, provided operators paid recurring state fees. Sikkim followed in 2005 by passing the Sikkim Regulation of Gambling (Amendment) Act to legalise and regulate casinos within its territory.

Death Blow

For the industry, the Bill could prove to be a death blow. For the government, it is a calculated trade off. It stands to lose up to Rs 20,000 crore in annual revenue but believes a complete ban is necessary to tackle money laundering and addiction. The coming months will decide whether this gamble by the state pays off or whether India’s online gaming industry finds a way to *roll the dice again*.

Kamath warns that *“the blanket ban proposed on real money gaming in India could create regulatory uncertainty in the gaming, new technologies and digital media sectors, and shake investor confidence.”* He notes that with over Rs 25,000 crore in FDI already invested, the sudden move without industry consultation may push investors to mark down valuations and reconsider future commitments. Publicly listed gaming companies have already witnessed sharp declines, while major startups now face what he describes as “existential challenges.”

On the impact on investment and jobs, Nath notes that *“given the MEITY had brought about amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 in April 2023, drawing a distinction between ‘online games’ and ‘online real money games’ and permitting certain ‘online real money games’ in accordance with the proposed framework thereunder, the introduction of the Bill, which presents a complete change in the approach by disallowing all money games, appears to be a regulatory flip-flop. This will certainly result in uncertainty in the gaming sector, and in the minds of the existing and potential investors in this sector. Accordingly, while the objectives of the Bill appear to be laudable, India’s overall ambition to be a global investment destination and a digital innovation hub (something that is highlighted in the Bill as well) will certainly be adversely affected by this move, notwithstanding the benefits that may accrue from, for example, recognition and promotion of e-sports in the Bill.”*

Ankit Sahni, Partner at Ajay Sahni & Associates, says the new Online Gaming Bill, 2025 targets all real money games, including skill-based formats like fantasy sports, focusing on whether money is staked. He adds that it also brings international platforms within its scope, giving authorities powers to block, fine or penalise operators and promoters targeting Indian players.



Rajesh Kumar

BW Reporters

Rajesh Kumar is a Senior Correspondent at BW Businessworld.

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