

The Impact of Regulating Online Gambling on the Validity of Wagering Agreements in India

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Abstract

This article delves into the multifaceted impact of regulating online gambling on the validity of wagering agreements in India. With the rapid growth of online gambling platforms, the legal landscape surrounding wagering contracts has witnessed significant shifts. Recently, the Indian government introduced regulations aimed at governing and overseeing online gambling activities. This article seeks to explore the repercussions of these regulatory measures on the validity and legality of wagering agreements in India. This investigation sheds light on the intricate interplay between regulation and contract law, providing insights into the future of online gambling in the Indian legal landscape.

Keywords: Landscape, multifaceted, regulatory, validity, wagering

INTRODUCTION

The online gaming industry is a substantial and swiftly growing sector, attracting a considerable number of individuals worldwide who engage in a diverse range of games on a daily basis. In recent times, there has been a growing acknowledgement of the necessity for regulatory measures aimed at safeguarding the safety and equity of online gambling as well as upholding the rights of players. Additionally, this has prompted significant legal and regulatory enquiries on the enforceability of gambling contracts within the jurisdiction.

The rules were just recently made public with the intention of regulating and controlling the actions associated with online gambling. It is generally agreed that this action taken by the administration represents a significant step. The purpose of this proposal is to protect participants in online games from any potential harm and to guarantee that gaming companies comply with Indian law. The purpose of this article is to investigate the impact that regulatory measures on online gambling will have on the validity and legality of wagering agreements in India. The paper will commence by examining wagering agreements, then delving into the regulatory framework around online gambling. Subsequently, we will undertake an analysis of the effects of regulatory measures on wagering agreements, ultimately culminating in a conclusive assessment.

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WAGERING AGREEMENT DEFINED

A wagering agreement is a contractual agreement between two parties where the first party commits to paying a specified amount of money to the second party upon the occurrence of a specific future event [1]. Conversely, the second party agrees to pay the first party if the said event does not occur. The essential element of a wagering agreement entails the involvement of two parties who possess mental capacity and engage in a transaction with the intention of gaining or losing

financial benefits [2]. Wagering agreements are deemed null and unenforceable due to their involvement in speculative and frequently unethical practises, such as gambling, which was considered illegal.

THE FUNDAMENTAL ELEMENTS OF A WAGERING AGREEMENT: A COMPREHENSIVE OVERVIEW

Uncertainty of the Outcome

The concept of uncertainty of outcome is integral to a betting arrangement, because the occurrence or result of an event is characterised by an inherent lack of predictability. Typically, such events are contingent upon chance rather than being influenced by skill or knowledge. The participants are essentially engaging in speculative activity regarding this unpredictable event.

Consideration

It is a fundamental requirement in a wagering agreement, similar to any other contractual arrangement. It necessitates the presence of a trade of anything valuable between the involved parties. In the majority of instances, the primary factor under consideration is monetary resources or tangible assets.

Prize or Stake

In a wagering agreement, it is customary for there to be a prize or stake at stake. The party that emerges as the victor in the wager is eligible to claim the prize or stake from the party that has incurred a loss. The aforementioned incentive serves as a driving force for the involved parties to engage in the contractual agreement.

Agreement between Parties

It is imperative that a reciprocal agreement or concurrence be established amongst the entities engaged in the wager. In order for the bet to be valid, it is imperative that all individuals involved demonstrate voluntary and conscious participation.

Excluding Skill-based Competitions

Wagering agreements commonly pertain to events characterised by chance. A wagering arrangement may not be classified as conventional if the outcome is contingent upon the skill, knowledge, or competence of the parties.

Horse racing is classified as an exemption from wagering contracts because of the legal precedent set by the Supreme Court of India in the case of *Dr KR Lakshmanan v. State of Tamil Nadu* [3]. In this landmark decision, the court acknowledged that horse racing, along with other activities such as football, chess, rummy, golf, and baseball, are considered games of skill. The court further determined that engaging in wagering on horse racing constituted a skill-based activity since it necessitated the evaluation of many factors, such as the performance history of the horse and jockey as well as the characteristics of the event itself [4].

REGULATING ONLINE GAMBLING

The legal landscape pertaining to internet gambling in India has undergone a progressive transformation, characterised by a diverse array of laws and regulations at both the central and state levels. Throughout history, gaming has been a matter falling under the purview of the state list as stipulated in the Constitution of India. This grants individual states the power to formulate and implement their own legislation pertaining to gambling. The current situation has led to a fragmented set of gambling legislation throughout the nation, wherein certain states allow specific types of gambling while others enforce prohibitions.

The Public Gambling Act of 1867 [5] holds considerable importance in the realm of gaming legislation in India. Nonetheless, the existing legislation is antiquated and fails to explicitly tackle the

matter of internet gambling, resulting in a state of legal uncertainty within the realm of online gambling.

In recent times, a number of states, namely Sikkim [6], Goa, and Nagaland [7], have implemented individual regulatory frameworks to oversee internet gaming operations conducted within their respective jurisdictions. On receiving the reference from the *Supreme Court in Board of Control of Cricket in India vs. Cricket Association of Bihar & Ors.* [8], the Law Commission, under the chairmanship of Justice Chauhan, submitted the 276th report recommending legal regulation of betting and gambling [9]. Recently, in *D Siluvai Venance v. State* [10], the Madras High Court called for stricter regulations for online games.

In a recent development, the Ministry of Electronics and Information Technology (MeitY) released a set of regulations pertaining to online gaming, with the aim of exerting control and supervision over this domain. As per the stipulations, online games are required to undergo registration with a self-regulatory entity. Only those games that have successfully completed the registration process and received recognition from said entity will be deemed legally permissible to function within the jurisdiction of India. In addition, the regulations mandate that intermediaries involved in online gambling must conduct additional due diligence measures and implement user protection mechanisms. In the subsequent sections of this paper, we will delve into an analysis of the comprehensive effects of these regulations on player safety, government revenue, user growth, and conflict resolution [11].

IMPACT OF REGULATIONS ON WAGERING AGREEMENT

The legal oversight of internet-based gambling activities in India has exerted a substantial influence on the enforceability of agreements related to placing bets. These agreements, which frequently entail bets or wagers on events with unpredictable outcomes, have been subject to examination and diverse interpretations within the changing legal and regulatory structure of the nation.

The regulation of internet gambling in India has a significant outcome in terms of enhancing the understanding and certainty surrounding the legality of wagering arrangements. In jurisdictions where online gambling is subject to regulation and licencing, a comprehensive framework exists to delineate the rights and obligations of both operators and participants. Individuals who engage in activities provided by authorised operators may discover that their betting agreements possess greater legal validity since these operators adhere to legal regulations.

Nevertheless, the absence of a standardised regulatory framework at the national level has resulted in legal disputes across different regions of India. There are several individuals and organisations that have raised concerns regarding the legality of online gambling activities. Their argument revolves around the notion that wagering agreements made with unregulated operators ought to be deemed null and void [12]. The presence of legal uncertainty has rendered wagering agreements vulnerable, as their enforceability may be subject to scrutiny based on the specific jurisdiction in which they are executed.

The uniform and appropriate execution of the legalisation or prohibition of online gambling is crucial. The consumer's life and property can potentially be safeguarded through the cultivation of knowledge among young gamblers regarding website adhesion agreements which are not illegal and licence terms. The esteemed authors conducted an analysis of problem gambling and argued for its control through legislative means. The implementation of universal legislation governing internet gambling across India has the potential to safeguard the younger population by promoting awareness regarding the detrimental effects associated with engaging in online gambling activities [13].

The underlying idea of public policy in India poses a recurring challenge to the legitimacy of wagering agreements. In the Indian legal system, there has been a longstanding tendency for courts to

exercise caution when it comes to the enforcement of wagering agreements. This cautious approach is primarily rooted in the perception that such agreements are in conflict with the principles of public policy. The issue at hand pertains to the possibility of developing addiction, experiencing financial detriment, and encountering adverse social outcomes as a result of engaging in gambling endeavours. As a result, courts possess the authority to exercise their discretion in evaluating the enforceability of wagering agreements, particularly when they perceive potential implications for public policy concerns [14].

The efficacy of enforcing wagering agreements is contingent upon the parties' inclination and capacity to initiate legal proceedings. In situations where a party perceives a lack of adherence or unjust execution of an agreement, they may opt to pursue legal remedies. Nevertheless, the process of manoeuvring through the legal system in order to enforce a wagering agreement can present difficulties, consume significant amounts of time, and incur substantial expenses, thus diminishing its attractiveness as a means of resolving disputes [15].

The socio-cultural perspective is an additional influential factor that impacts the legitimacy of wagering agreements in India. Gambling, a longstanding facet of Indian society, is frequently regarded with wariness and scepticism because of its inherent risks of addiction and financial devastation. The aforementioned viewpoint has had an impact on the legal handling of gambling endeavours, encompassing the enforcement of agreements related to wagering. In light of potential adverse consequences for society, judicial bodies may exhibit reluctance in endorsing such practices.

CONCLUSION

The regulatory framework around internet gambling in India has resulted in a multifaceted and disjointed environment regarding the enforceability of wagering agreements. The legal intricacies of wagering agreements in India persist, with their enforceability being contingent upon the legislative framework of a particular state, alongside considerations pertaining to public policy and societal welfare. When it comes to the establishment of legal frameworks on a national scale related to betting contracts, it is very essential for lawmakers to take into consideration the concerns and points of view of all relevant parties. This is particularly important in light of the fluid nature of the regulatory landscape.

A careful balance is required for the appropriate administration of gaming laws and regulations. The potential exists to streamline the extensive terms and conditions typically encountered on gambling websites by utilising customised audio and video messaging, similar to the condensed format employed in engaging commercials. This would make maintaining communication with players much simpler.

The fluctuation in the classification of wager agreements as either games of skill or games of chance can be elucidated by the implementation of appropriate gambling legislation, which aims to offer redress to those who have been wronged. The study demonstrates that each state government strives to control online gambling through appropriate legislation and also works to address the issue of problem gambling through effective implementation. Therefore, the necessity for standardised regulation in online wagering and gambling adherence agreements becomes apparent. The implementation of comprehensive rules pertaining to the provisions found in unilateral gambling website agreements would serve to safeguard the interests and well-being of the players involved.

Given the borderless nature of online gaming, the effective monitoring and control of laws pertaining to online wager agreements can serve as a more effective means of safeguarding the rights of players in relation to their lives and property. The potential legalisation and regulation of online gambling by governmental authorities will bring substantial changes in the realm of wagering agreements and the broader gaming sector.

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