

## Supreme Court verdict revives ban on gutka, pan masala in Tamil Nadu

By Abraham Thomas | April 25, 2023

*The notification imposing a ban across the state on sale of pan masala and gutka was issued by the Commissioner of Food Safety on account of the dangers posed to public health*

**NEW DELHI:** The Supreme Court on Tuesday stayed a Madras high court order in January that set aside the ban on the sale of gutka and pan masala in Tamil Nadu on the state government's appeal.

Deciding the appeal filed by the state government against the high court's January 20 verdict, the bench of justices KM Joseph and BV Nagarathna said, "The petitioner (state) has made out a case for stay of the judgment."

The notification imposing a ban across the state on sale of pan masala and gutka was issued by the Commissioner of Food Safety on account of the dangers posed to public health. The tobacco traders and manufacturers opposed the state's plea stating that the state government did not have the power to issue a permanent ban as such power was available only with the Parliament. Senior advocate Abhishek Manu Singhvi appearing for the tobacco traders said, "Ban is not the answer. You may prosecute for food standards."

But the state government, represented by senior advocate Kapil Sibal, pointed out that the government had a duty to act in the public interest and not in private interest when it comes to the health of citizens. "We are protecting people from disastrous consequences of having food article that results in cancer. It is government's duty to protect people from its dangers," he said.

The top court noted that the high court's order was passed on the basis that the ban could be exercised by the state as a one-time power and an infinite ban was not within the powers contemplated under the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011.

The state in its appeal told the apex court that the approval to ban gutka, pan masala and other related products flowed from a 2013 judgment of the top court in view of health concerns and plastic waste generation.

Further, Sibal pointed out that Regulation 2.3.4 of the 2011 Regulations prohibits the use of tobacco or nicotine in any food products and this regulation has not been challenged by the tobacco traders.

He submitted that the high court order was wrong since once it is accepted that tobacco, with or without additives, is a food product as defined under the Food Safety and Standards Act, 2006, the Commissioner of Food Safety will have express powers to prohibit the sale of such product. It further said that although the notification under challenge before the high court was of the year 2018, the order under challenge quashed all subsequent notifications issued by the Commissioner of Food Safety.

Source: <https://www.hindustantimes.com/india-news/supreme-court-stays-madras-high-court-order-lifting-ban-on-gutka-and-pan-masala-sale-in-tamil-nadu-citing-public-health-concerns-101682439207872.html>