

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

**I.A. No. \_\_\_ of 2020**

**IN**

**WRIT PETITION No. 13714 of 2020 (GM Res)**

**BETWEEN:**

**Sharada D R**

**...Petitioner**

**AND**

**1. STATE OF KARNATAKA**

Room No. 320m 3<sup>rd</sup> Floor,  
Vidhana Soudha,  
Bengaluru – 560001  
Represented by its Chief Secretary  
Email: [cs@karnataka.gov.in](mailto:cs@karnataka.gov.in)

**...Respondent**

**2. The Online Rummy Federation**

011/A, Keval Tower,  
B. J. Patel Road, Malad-West,  
Mumbai-400064, Maharashtra

**.... Impleading Applicant/  
Proposed Respondent**

**INTERLOCUTORY APPLICATION FOR IMPLEADMENT  
FILED ON BEHALF OF THE ONLINE RUMMY  
FEDERATION, THE PROPOSED RESPONDENT, UNDER  
ORDER I RULE 10(2) OF THE CODE OF CIVIL PROCEDURE,  
1908, READ WITH SECTION 151 OF THE CODE OF CIVIL**

**PROCEDURE, 1908, AND ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA.**

The Impleading Applicant/proposed Respondent humbly submits as under:

1. That The Online Rummy Federation (“TORF” and “**the Impleading Applicant**”) is a not-for-profit society established under the Societies Registration Act, 1860 to guide and support the online rummy industry in providing sustainable and healthy entertainment to players across India and aims to encourage, develop, facilitate and support the online rummy operators to adopt a common set of standards and practices with the goal of building a self-regulatory framework that will lead to a responsible industry and protect player interests. All the members are online rummy operator companies which are subject to the jurisdiction of the laws of India and within the ambit of Indian taxation. The key stakeholders in TORF are online rummy operators, online skill games operators, policy analysts, industry experts, law firms, consulting firms, technology providers, service providers, payment gateway, tax consultants and game enthusiasts amongst others.

2. That online rummy operators, who are members of the TORF are only service providers to end-customers. The rummy operators provide a virtual platform on the internet or via a mobile application, where users from different parts of the country play rummy against other players. Neither the member operators nor their respective employees participate in any games on their respective platforms and there are various internal checks in place to ensure this protocol is maintained. There is also no side-betting on the outcome of a game by any third parties and the games that are played for stakes are strictly between the participants. The operators offer the standard thirteen (13) card rummy game variant with two (2) packs with a minimum of two (2) and maximum of six (6) players per game table. The operators also run tournaments where winners are decided after several rounds of such games.
3. That TORF encourages its members to follow a ‘Code of Conduct for Online Rummy Operators’ (hereinafter referred as “**TORF Code**”) issued by the Impleading Applicant. It is pertinent to mention that the Impleading Applicant requires its certified members to adhere to the rigorous operating standards

which have been prepared in line with various existing global (European Union and United Kingdom, etc.) regulatory frameworks. A copy of the TORF Code is annexed herewith and marked as **ANNEXURE -A**.

4. That the Impleading Applicant craves leave to file detailed Statement of Objections to this Petition and produce all such material and relevant documents as are necessary for the adjudication of this petition, during the course of these proceedings.
5. That the Petitioner is seeking ban of all forms of Online Gambling and Online Betting in any nature until 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.
6. That the TORF has sought to implead itself as a party-Respondent to this writ petition, for the following reasons:
7. That the entire Petition is based on a misconceived notion and/or premise that the Online Rummy is not based on skill. It is most respectfully submitted that the Petitioner has miserably

failed to substantiate the said allegation/averment. It is needless to state that the said assertions are neither backed by accurate facts. It is stated that none of the members of the Impleading Applicant engage or employs BOTS as alleged by the Petitioner. With prejudice to the above, it is further submitted that the Impleading Applicant follows a strict protocol in securing the interests of the customers of its member online rummy operators and encourages its members to not indulge in any illegal activity of employing BOTs etc.

8. That the Impleading Applicant is a not-for-profit society registered under the Societies Registration Act, 1860 to guide and support the online rummy industry in providing sustainable and healthy entertainment to players across India. It is pertinent to mention that the TORF members put together represent over 80% of industry revenues. The TORF members are essentially technology companies run by first generation technocrats.
9. That the Impleading Applicant aims to encourage, develop, facilitate and support the online rummy operators to adopt a common set of standards and practices with the goal of building a self-regulatory framework that will lead to a responsible

industry and protect player interests. The Impleading Applicant also acts as the unified voice of the online rummy industry that works with all its stakeholders for creating the right environment for the growth of the online rummy business.

10. That the TORF has successfully implemented a self-regulatory program for its members. The following are the self-regulations which are applicable to certified members of TORF:
  - i. **TORF Code** – TORF encourages its members to follow certain standards on ethical operating procedures, responsible playing measures, customer verification norms and advertising practices in line with global standards;
  - ii. **TORF Audit** - A periodic audit is run to ensure compliance with TORF Code. Operator's platform certification is dependent upon a positive report issued by the independent auditor appointed by TORF;
  - iii. **TORF Dynamic Seal** - A digital certificate is granted to operators who qualify on all the requirements of this Code, which is available only through the TORF Dynamic Seal Verification System;

- iv. **Suspension and Cancellation** - The dynamic seal can be suspended and cancelled when non-compliance is reported in the course of an audit of the operator and the reported violations are not rectified by the operator within the permitted time.
11. That the TORF Code is extremely comprehensive to ensure responsible, secure and fair gameplay. The following are some of the key requirements that accredited TORF members have to ensure while operating Online Rummy platforms and/or mobile app:
- i. Underage players are stopped by clear warning of age restriction and strict KYC requirements verifying their age and address prior to making any withdrawal. Further the payment modes accepted by the members of the Petitioner are mostly accessible to majors (e.g. Credit Card, Net Banking);
  - ii. SSL level encryption for data protection;
  - iii. KYC compliance and account security;
  - iv. Players' funds to be separated and are free from any encumbrance;

- v. Strict timelines to process withdrawal requests;
  - vi. Prohibition of using automated players (technically known as ‘BOTS’);
  - vii. Random Number Generator (‘RNG’) certification;
  - viii. Processes to detect and stop multiple accounts of a player;
  - ix. Daily and monthly deposit limits;
  - x. Option to players to self exclude; and
  - xi. Mandatory complaint resolution process.
12. That the Impleading Applicant has a strict policy which prohibits the certified TORF members from engaging BOTS to play on TORF members’ platform. I further submit that TORF members have in-house policies pertaining to employment of its employees that preclude them from playing real money games on the platform. Therefore, the Petitioner’s allegation that *“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”*, is completely unfounded and baseless. In any case, certified TORF members’ have the data of each game

which is stored so it can be easily proved by the certified TORF members that the players were actual individuals who accessed the Platform for playing games against other actual players. Also, all transactions relating to games from deposits to withdrawals are done through banking channels so every transaction and the identity of the participants can be tracked by any agency.

**GAMES OF SKILL ARE NOT GAMBLING:**

13. That in the cases of **State of Bombay v. RMD Chamarbaugwala, AIR 1957 SC 699** and **R. M. D. Chamarbaugwala Vs. The Union of India AIR 1957 SC** (collectively hereinafter referred as "**Chamarbaugwala Cases**"), the constitution bench (5 Judges Bench) of the Hon'ble Supreme Court of India examined the question whether commercial activity related to a game of skill are protected as a fundamental right under Article 19 (1)(g) of the Constitution of India as compared with activities that are of gaming/gambling nature. The constitution bench ruled that activities of gambling nature and activities based on skill fall in two distinct classes. Relevant section of the judgement is produced as below:

*“It will suffice to say that we agree with the Court of Appeal that a competition in order to avoid the stigma of gambling must depend to substantial degree upon the exercise of skill. Therefore, a competition success wherein does not depend to a substantial degree upon the exercise of skill is now recognised to be of a gambling nature.”*

**GAMES OF SKILL ARE PROTECTED UNDER ARTICLE 19(1)(g) OF THE CONSTITUTION OF INDIA:**

14. That in the connected case, **R. M. D. Chamarbaugwala Vs. The Union of India AIR 1957 SC 628**, the same bench of the Hon’ble Supreme Court held that activities that are based on skill deserve protection under the fundamental right to do business and profession granted under Article 19 (1)(g) of the Constitution of India:

*“6. As regards competitions which involve substantial skill, however, different considerations arise. They are business activities, the protection of which is guaranteed by Art. 19(1)(g).....”*

**RUMMY IS A GAME OF SKILL:**

15. It is reiterated that rummy is a ‘game of skill’ and protected under Article 19(1)(g) of the Constitution of India as laid down by the Hon’ble Supreme Court as well as various High Courts. It is pertinent to refer to the judgment of the Hon’ble Supreme Court in the matter of State of Andhra Pradesh vs. K. Satyanarayana [AIR 1968 SC 285] (“K. Satyanarayana’s Case”), wherein it was held as under:

*“15. We are also not satisfied that the protection of s. 14 is not available in this case. The game of Rummy is not a game entirely of chance like the 'three-card' game mentioned in the Madras case to which we were referred. The 'three card' game which goes under different names such a 'flush', 'brag' etc. is a game of pure chance. Rummy, on the other hand, requires certain amount of skill because the fall of the cards has to be memorised and the building up of Rummy requires considerable skill in holding and discarding cards. We cannot, therefore, say that the game of Rummy is a game of entire chance. It is mainly and preponderantly a game of skill. The chance in Rummy is of the same character as the chance in a deal at a*

*game of bridge. In fact in all games in which cards are shuffled and dealt out, there is an element of chance, because the distribution of the cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack. From this alone it cannot be said that Rummy is a game of chance and there is no skill involved in it.”*

16. Further, the Hon’ble Supreme Court in the matter of **Dr. K.R. Lakshmanan vs. State of Tamil Nadu [(1996) 2 SCC 226]** (“**K.R. Lakshmanan Case**”), held as below:

*“3. The New Encyclopedia Britannica defines gambling as the betting of staking of something of value, with consciousness of risk and hope of gain on the outcome of a game, a contest, or an uncertain event the result of which may be determined by chance or accident or have an unexpected result by reason of the better's miscalculations'. According to Black's Law Dictionary (sixth edition) 'Gambling involves, not only chance, but a hope of gaining something beyond the amount played. Gambling consists of consideration, an element of chance and a reward".*

*Gambling in a nutshell is a payment of a price for a chance to win a prize. Games may be of chance or of skill or of the skill and chance combined. A game of chance is determined entirely or in part by lot or mere luck. The throw of the dice, the turning of the wheel the shuffling of the cards, are all modes of chance. In these games the result is wholly uncertain and doubtful. No human mind knows or can know what it will be until the dice is thrown, the wheel stops its revolution or the dealer has dealt with the cards. A game of skill, on the other hand, although the element of chance necessarily cannot be entirely eliminated is one in which success depends principally upon the superior knowledge, training, attention, experience and adroitness of the player, Golf, Chess and even Rummy are considered to be games of skill. The courts have reasoned that there are few games, if any which consist purely of chance or skill, and as such a game of chance is one in which the element of chance predominates over the element of skill and a game of skill is one in which the element of skill predominates*

*over the element of chance. It is the dominant element 'skill' or 'chance' which determines the character of the game.*

...

*20. The judgments of this Court in the two Chamarbaugwala cases and in the Satyanarayana case clearly lay-down that (i) the competitions where success depends on substantial degree of skill are not '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". We, therefore, hold that the expression "mere skill" would mean substantial degree or preponderance of skill."*

The Hon'ble Supreme Court further held that "32. The expression 'gaming' in the two Acts has to be interpreted in the light of the law laid-down by this Court in the two Chamarbaugwala cases, wherein it has been authoritatively held that a competition which substantially depends on skill is

not gambling. Gaming is the act or practice of gambling on a game of chance.”

17. It is most respectfully submitted that the Hon’ble Supreme Court has over the years held that despite the use of the terms “mere”, “pure”, “only” skill in the exemption provisions of various gambling laws, these words have to be read as “predominantly skill”. It is imperative to mention that all activity which is based on the skill of the participant, whether it is investing in a stock market or participating in a quiz or chess competition may have some kind of participation cost/stake and/or charges payable to the party hosting it for commercial gain, and such activities could, by no stretch of interpretation be treated as gambling activity. It is most respectfully submitted that if the reliefs, as sought in the Petition, are granted, it could result in treatment of all skill-based activity, including those stated above, as gambling.
  
18. That the Hon’ble Supreme Court in the matter of **M.J. Sivani v. State of Karnataka, (1995) 6 SCC 289**, wherein the Hon’ble Court held as follows, “11. ... In any game in which even great skill is required, chance must play a certain part. Even a skilled

*player in a game of mere skill may be lucky or unlucky, so that even in a game of mere skill chance must play its part. But it is not necessary to decide in terms of mathematical precision the relative proportion of chance or skill when deciding whether a game is a game of mere skill. When in a game the element of chance strongly preponderate, it cannot be game of mere skill. ....”*

19. It is apparent from the above judgments, the Hon’ble Supreme Court has categorically held that games of skill are very different from gambling, *i.e.*, games where the element of chance is predominant. While gambling may not enjoy the same protection under the Constitution of India, the Hon’ble Supreme Court was very clear in holding that games of skill are to be considered as legitimate business pursuits and are guaranteed the protection under Article 19(1)(g) of the Constitution of India on the right to practise any profession, or to carry on any occupation, trade or business. Any restriction on the same may not stand scrutiny of the constitutional courts of this country.
20. That the Hon’ble Supreme Court specifically held that a game of skill would not come within the definition of ‘gaming’ and

provisions of the instant gambling statutes would not be applicable. Moreover, it must be noted that the Hon'ble Supreme Court itself in the **K.R. Lakshmanan Case** had specifically noted that the club which was organizing the horse race in question was collecting certain fees and commission from the owners of horses, book markers and totalizators, and did not create any specific distinction for games of skill, when played with stakes or when the club charges some fee or commission for organizing/ facilitating the game of skill. In **K.R. Lakshmanan Case**, the Hon'ble Supreme Court, held horse racing to be a game of skill, and accordingly, not within the ambit of gambling.

21. That in view of the two **Chamarbaugwala cases** which were followed in the **K.R. Lakshmanan Case** cited above, the legal position is well settled that activities / games based on skill are not only distinct from activities based on chance rather they are also protected under Article 19(1)(g) of the Constitution of India.
22. That the Karnataka Police Act, 1963 ("**Police Act**") unconditionally exempts games of skill irrespective of

“wherever” they are played. In this regard, Section 176 of the Police Act along with the various judicial precedents, cited hereinabove, make it amply clear that Rummy which is a game of skill, is exempt from the applicability of the penal provisions under the Police Act. A copy of Karnataka Police Act, 1963 is annexed herewith and marked as **ANNEXURE B**.

23. That the game of Online Rummy is no different from playing physical rummy other than the fact that the game is conducted and played virtually. The thirteen (13) card rummy game being conducted by the TORF Members on their respective online platforms and mobile app is a “Game of Skill” in conformity with the aforementioned judgments of the Hon’ble Supreme Court and various other High Courts. The working of the Online Rummy on the Platform as mentioned below will demonstrate that the Online Rummy is the same as playing physical rummy, as described below:
  - I. Player registers on the website with a unique username, email and password.
  - II. The minimum age of playing Online Rummy is 18 years age or above.

- III. The player can play free rummy games after registering on the website.
- IV. If a player wants to play games with stakes, he/she has to add money to his user account which he can do by using online mediums including net-banking, credit cards, debit cards or other online prepaid instruments (*i.e.*, mobile wallets such as Paytm etc.).
- V. With the money that the player has in his/her user account he can choose the game that he/she wishes to play from a list of games displayed on the website.
- VI. Every game has a 'JOIN' button associated with it and a player can join the virtual game table by clicking on this button.
- VII. Once a player joins a game table, entry fee specified for that game is held as 'in-play' and deducted from their user account at the end of the game.
- VIII. The game starts when at least two players are seated on the virtual game table. Cards are dealt randomly by Random Number Generator ("RNG") software that is certified by an independent globally-renowned IT audit agency (I-tech labs, Australia). This ensures that there is

no bias or tampering in the way cards are dealt to users. Furthermore, the players play the game as per the standard rules of rummy which are akin to the rules of rummy played in any form whatsoever and are also published on the Platform of the online rummy operators.

- IX. At the end of the game, the winner gets the entire wagered amount minus a predetermined service charge/platform fee that is deducted by the company which could be in the range of 5% to 15% depending on the game and stake types.
24. That the cards on certified platforms are distributed using the RNG software which cannot be modified or managed or tampered with at any time by the operators. It is submitted that RNG is an algorithm employed by the certified TORF members for their online platforms and mobile apps to ensure that the card decks are properly shuffled and sequence of cards dealt to each player in a game table does not follow observable/deducible pattern. A sample Random Number Generator Software Certificate is annexed herewith and marked as **ANNEXURE – C**.

25. That the Impleading Applicant through the TORF Code promotes fair play and responsible play. It is submitted that Impleading Applicant ensures players' interest is protected and adequate safeguards are provided by the certified TORF members. In this regard, the Impleading Applicant craves leaves of this Hon'ble Court to rely on the TORF Code during the course of the arguments.
26. That the game of rummy being a 'Game of Skill' was enjoyed for generations in the traditional form before the advent of the internet and online rummy industry and is a perfectly legitimate form of entertainment that people across India have enjoyed for over a decade. It is most respectfully submitted that prohibition of Online Rummy will only deter larger and well-meaning rummy operators such as members of TORF from offering their services in a perfectly legitimate manner and following all rules and regulations including the law. However, any prohibition / ban, would lead to unscrupulous operators from India and illegal operators that operate from outside India (similar to sports betting platforms) will thrive at the cost of the state exchequer and player safety.

27. That many countries across the world have successfully regulated real money games providing players with safe and responsible entertainment choices, increasing tax revenues and eliminating unscrupulous operators. Similarly, State of Nagaland and State of Sikkim have followed the international model of regulation with similar standards and licensing.
28. It is most respectfully submitted that the negative impact of prohibition will be multi-fold as the industry, which employs several thousand people, will have to reduce its workforce and cut back significantly its business investments in the country.
29. That recently, due to the ban on all skill based games in the State of Telangana by a sweeping amendment to the Telangana Gaming Act in 2017, many unscrupulous elements have started illegal online gambling activities. One such instance was reported in Times of India on 14.08.2020 that a Chinese national and three of his Indian associates have been arrested in a crackdown on an illegal online gambling racket being run by a China- based company in Hyderabad, in violation of the law. Online gambling was allegedly organized by different companies under the umbrella of China-based “Beijing T Power

Company” and transactions worth over Rs 1,000 Crore had been unearthed. Therefore, in order to protect the interests of the people in general, the State must regulate the online gaming activities rather than ban or prohibit legally conducted games. A copy of the News reports of illegal gambling in State of Telangana is annexed herewith and marked as **ANNEXURE – D.**

30. That it is evident that when the State of Telangana enacted a blanket ban which encompassed even legitimate skill gaming activity, the effect was only that the legally complaint companies stopped offering skill games to the residents of Telangana, whereas illegal gambling site flourished. I further state that illegal gambling activities not only leave the people unprotected from cheating, but also do not contribute to the state exchequer in the form of Income taxes and GST.
31. That 276<sup>th</sup> Law Commission Report: Legal Framework: Gambling and Sports Betting including in Cricket in India has suggested that regulating the gambling industry can assist in increased revenue generation. Further, a straight-jacket prohibition on ‘Games of Skill’ has resulted in a rampant

increase in illegal gambling, resulting in a boom in black-money generation and circulation. Regulating online games which are skill based, could ensure detection of fraud and money laundering and would create transparency. The Impleading Respondent craves leave of this Hon'ble Court to rely on the Law Commission Report during the course of the arguments.

32. That NITI Aayog has also published a Discussion Paper on 'Regulation of Online Fantasy Sports Platforms in India' in December 2020. The Discussion Paper has been published with a view to identify the nascent industry's potential and help it grow into a global leader. NITI Aayog has drawn attention to the growth of online fantasy sports platforms ("OFSPs") in the country, both in terms of number of users and revenue. Further, NITI Aayog has highlighted that OFSPs provide thousands of direct and indirect jobs, contribute to the revenue of the exchequer through GST, income tax and corporate tax, and also attract foreign direct investment. It is pertinent to mention that NITI Aayog has emphasised on uniform national level regulation of OFSPs in India. The Impleading Respondent

craves leave of this Hon'ble Court to rely on the Discussion Paper during the course of the arguments.

33. That the Impleading Applicant estimates a license fee-based regulation can generate over Rs. 1,000 Crore in revenues for the State of Karnataka over the next five years. As in other jurisdictions across the world, operators can also contribute to the tune of Rs. 100 Crore over the next five years to help players in psychological distress. It is submitted that the aforementioned would be in addition to Rs. 1,000 Crore in GST that TORF member operators will pay over the next five years on revenues generated in the State of Karnataka. This license fee-based regulatory approach has the added advantage of eliminating the illegal and unscrupulous operators who will thrive and prey on the most vulnerable if the government institutes a ban.
34. Indeed for the benefit of the public in general, the Impleading Applicant has made a representation dated 23.11.2020 to the Hon'ble Chief Minister of Karnataka requesting to regulate Online Rummy in the State of Karnataka. A copy of the

representation to the Hon'ble Chief Minister is annexed herewith and marked as **ANNEXURE – E**.

35. That the proceedings in present Writ Petition will have a direct and material impact on the business and operations of the constituent members of the Impleading Applicant, and that, therefore, the Impleading Applicant ought to be heard for proper and comprehensive determination of the contentions in this Petition. Severe prejudice, in the form of loss of business, investments and livelihood would be caused to the online rummy operators who are members of the Impleading Applicant, if the prayers in this writ petition are granted without affording an opportunity of hearing to the Impleading Applicant. Hence, the Impleading Applicant is a proper and necessary party to this Writ Petition.
  
36. That the Impleading Applicant would also like to submit that the Impleading Applicant is willing to work with the Respondents in the event they intend to regulate the online skill games industry.

37. It is further submitted that a matter of such grave importance has several stakeholders, none of whom have been made parties in the instant Petition. Any decision that is passed without taking into account the rights of such stakeholders shall cause hardship to such stakeholders, including the members of the Impleading Applicant.
38. Without prejudice to the above, it is most respectfully submitted that the present Petition is *ex facie* not maintainable, unsubstantiated, frivolous, baseless and lacks any concrete foundation and basis in facts or law, and as such, it is liable to be rejected by this Hon'ble Court at the threshold itself. It is most respectfully submitted that the Petition has been filed with the sole purpose and objective of harassing and defaming the members of the Impleading Applicant. It is further submitted that the Petition has been filed without proper appreciation of facts as well as applicable law, as has been pointed out in detail in the present Application and is highly misrepresentative in nature. The Petitioner is, therefore, disentitled from seeking any relief from this Hon'ble Court, much less a relief in public interest. The present Petition also appears to have been filed to garner publicity by misusing the pedestal of this Hon'ble Court.

Thus, this writ petition ought to be dismissed *in limine*, and with exemplary costs.

**WHEREFORE**, it is humbly prayed for the reasons stated above that this Hon'ble Court may be pleased to permit the Impleading Applicant/proposed Respondent to be added to the array of parties to the above writ petition as a Respondent.

**Proposed Respondent**

**The Online Rummy Federation**

A not-for-profit society established  
under the Societies Registration Act, 1860  
Having its registered office at,  
011/A, Keval Tower,  
B. J. Patel Road, Malad-West,  
Mumbai-400064, Maharashtra

**Bengaluru  
....01.2021**

**Advocate for Impleading Applicant/  
Proposed Respondent**