

‘ASSEMBLY CAN IMPOSE TAX ON OTHER STATES’ LOTTERIES’

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The judgment came on the appeals by the governments of Karnataka and Kerala.

The Supreme Court on Wednesday held that a State legislature has the right to impose tax on lotteries conducted by other States within its jurisdiction.

A Bench of Justices M.R. Shah and B.V. Nagarathna observed that ‘lotteries’ is a “species of gambling activity”. The court said ‘betting and gambling’ is part of the State List in the Seventh Schedule of the Constitution.

“The power to tax is on all activities which are in the nature of ‘betting and gambling,’ including lotteries. Since, there is no dispute that lotteries, irrespective of whether it is conducted or organised by the Government of India or the Government of State is ‘betting and gambling’, State legislatures have the power to tax lotteries under Entry 62 of the State List,” Justice Nagarathna, who authored the 122-page judgment, held.

The judgment came on appeals filed by the Karnataka and Kerala governments against the decisions of their respective High Courts to quash laws enacted by their legislatures to tax lotteries organised and promoted by the States of Nagaland, Arunachal Pradesh, Sikkim, Manipur in Kerala and Karnataka.

The High Courts had found the tax laws enacted by the two States invalid and unconstitutional and had even directed Kerala and Karnataka to refund the money collected as tax.

“We find that Division Benches of the High Courts of Kerala and Karnataka were not right in holding that the respective State legislatures had no legislative competence to impose tax on the lotteries conducted by other States in their State,” Justice Nagarathna noted.

“Betting and gambling is a genus... It includes several types or species of activities. From the judgments of this court, it is clear that ‘lotteries’ is a species of gambling activity. Hence, lotteries are within the ambit of ‘betting and gambling’ as appearing in Entry 34 List II... the States of Karnataka and Kerala were fully competent to enact the Acts and levy taxes on betting and gambling,” the judgment said.

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