

**Court No. - 40**

**Case :-** WRIT - C No. - 3880 of 2024

**Petitioner :-** M/S Dm Gaming Pvt Ltd

**Respondent :-** State Of Up And 6 Others

**Counsel for Petitioner :-** Yash Tandon

**Counsel for Respondent :-** C.S.C.

**Hon'ble Shekhar B. Saraf,J.**

**Hon'ble Manjive Shukla,J.**

1. Heard Sri Amit Saxena, learned Senior Advocate assisted by Sri Yash Tandon and Sri Rohit Sharma, learned counsel appearing for the petitioner and Sri Praveen Kumar Giri, learned A.A.G. assisted by Sri Gireesh Chandra Tiwari, learned Standing Counsel appearing for the State.

2. This is an Application under Article 226 of the Constitution of India wherein petitioner is aggrieved by an order dated January 24, 2024 passed by the office of the D.C.P. City Commissionerate, Agra. This order was passed in relation to an application made by the petitioner for granting permission to run a gaming unit wherein games such as Poker and Rummy would be played.

3. Learned counsel appearing for the petitioner, to buttress his arguments, has relied upon the judgement of Hon'ble Supreme Court passed in *State of Andhra Pradesh Vs. K.S. Sathyanarayana AIR 1968 SC 825* as well as in the judgement of Madras High Court passed in *Junglee Games India Private Limited Vs. State of Tamil Nadu (W.P. No. 18022 of 2020)* and stated that games of Poker and Rummy are the games involving skill and not gambling. He further submits that the impugned order dated January 24, 2024 does not address any of the issues and simpliciter denies the permission for such gaming unit on the basis of surmises and conjectures that there may be possibility of peace and harmony being disrupted and gambling (*jua-satta*) taking place.

4. In light of the fact that gambling is prohibited, the permission was denied without going into the aspect that card games i.e. Poker and Rummy are absolutely a game of skill and not gambling.

5. Upon considering the various aspects, we are of the view that the officer concerned should look into the aspect after examining the judgements of Hon'ble Supreme Court and various High

Courts on the said issue. Denial of the permission only on the basis of the clairvoyance of the officer concerned cannot be a ground that can be sustained. Hard facts are required to be brought on record by the officer to deny the permission for carrying out the recreational gaming activities.

6. Needless to mention that the permission being granted by itself would not prevent the authorities concerned to check on the aspect of gambling that may take place at a particular place and if the same happens, necessary action under law can always be taken by the authorities.

7. In light of the above observation, the authority concerned is directed to revisit the issue and pass a reasoned order after granting an opportunity of hearing to the petitioner within a period of six weeks from date.

8. With the above observation, this writ petition is disposed of.

**Order Date :- 29.8.2024**

A. Mandhani

(Manjive Shukla, J.) (Shekhar B. Saraf, J.)