

KARNATAKA

## Courts can't ban sale of loose cigarettes: HC

Bengaluru, December 24, 2017



**'It is for Union, State govts. to take such measures as per law'**

The High Court of Karnataka has held that prohibition of sale and distribution of loose cigarettes cannot be ordered by the courts as it is for the Union and State governments to take such a decision.

A Division Bench comprising Justice B.S. Patil and Justice B.V. Nagarathna made the observations in their order of December 15 while disposing of a PIL petition, filed by one Rahul Joshi of Jaipur in Rajasthan and which was transferred to the High Court of Karnataka from the Rajasthan High Court.

The PIL petition was transferred to Karnataka along with other petitions in which cigarette and tobacco products manufacturers had challenged the legality of enhancing the size of pictorial warning on the packs of cigarette and other tobacco products through the Cigarette and Other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014.

It was contended in the PIL petition that the provisions of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 should be interpreted that no tobacco product must be sold without carrying the specified warning and hence, there should be a ban on sale of loose cigarettes or tobacco products de hors the packet.

The Bench, however, said such an interpretation cannot be made by citing a judgment of the Allahabad High Court, which had held that Cigarette and Other

Tobacco Products (Packaging and Labelling) Rules, 2008 do not provide that cigarettes must also contain the warning.

“Hence, the plea that since warnings are not available on loose cigarettes and beedis, their sale should be banned and only sealed package which contain large number of cigarettes and beedis should be sold did not appeal to the Allahabad High Court, which had declined to issue direction to prohibit of sale of loose cigarettes, as in the opinion of the said court such a direction could lead to greater consumption even amongst those who generally buy loose cigarettes and beedis for occasional smoking,” observed the High Court of Karnataka.

As it was pointed out to the Bench that some circulars were issued by the State health authorities in Rajasthan, asking the district authorities to prevent sale of loose cigarettes, the Bench hoped that such a circular would be implemented in letter and spirit.

Meanwhile, the Bench also did not thought it fit to issue a direction to the authorities to prescribe plain packaging of cigarette and other tobacco products while pointing that this too falls in the domain of the Centre and State governments to consider such a scheme in accordance with the law.

**Source:** <http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/courts-cant-ban-sale-of-loose-cigarettes-hc/article22269671.ece>