

Top Court: South Africa Tobacco Ban Invalid

June 17, 2022

South Africa's Supreme Court of Appeal (SCA) on June 14 upheld a high court judgement that declared the ban on tobacco products sales during the Covid-19 pandemic unconstitutional, reports Times Live.

In March 2020, Co-Operative Governance and Traditional Affairs Minister Nkosazana Dlamini-Zuma banned the sale of tobacco products to contain the spread of Covid-19.

In June 2020, British American Tobacco, JT International and several tobacco product consumers asked a court to invalidate the ban.

The matter was heard by a full bench of the court in August 2020 and judgment was reserved. Later that month, the minister lifted its tobacco sales ban.

Despite the lifting of the ban, the court passed judgment in December 2020 declaring the regulation inconsistent with the constitution and invalid.

The government appealed the ruling, but lost.

In its June 14 judgment, the SCA said assuming there was a causal link between smoking and the risk of contracting a more severe form of Covid-19, the minister would have had to show that stopping smoking during the tobacco ban would have reversed or reduced the risk of contracting a severe form of Covid-19.

The SCA said this had not been established as evidence.

As regulation 45 was not necessary to achieve any of the purposes listed in section 27 of the Disaster Management Act, it was invalid, the court noted.

Section 27 states that in the event of a national disaster the minister may make regulations dealing with steps that may be necessary to prevent the escalation of the disaster or to alleviate, contain and minimize the effects of the disaster.

Source: <https://tobaccoreporter.com/2022/06/17/supreme-court-south-africa-tobacco-ban-invalid/#:~:text=South%20Africa's%20Supreme%20Court%20of,pandemic%20unconstituti%2C%20reports%20Times%20Live>