

## Delhi High Court stays ban on sale of e-cigarettes and vapes

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Richa Banka | March 20, 2019



An e-cigarette. (Shutterstock/Representative image)

The Delhi High Court has stayed an order of the Directorate General of Health Services (DGHS) banning the sale, manufacture, distribution, trade, import and advertisement of e-cigarettes and vapes.

Justice Vibhu Bakhru said on Monday that prima facie these products do not fall within the definition of a “drug”.

“.....the Court is, prima facie, of the view that the products do not fall within the definition of a “drug”, as defined under section 3 (b) of the Drugs and Cosmetic Act, 1940,” the court said.

“If the product in question is not a drug, respondent no 1 (DHGS), would not have the jurisdiction to issue the impugned circular. In this view, the impugned communication and impugned circular are stayed, till the next date of hearing,” it said.

The court’s decision comes on a plea by Litejoy International Private Limited, which through one of its directors Lokesh Jain had challenged the February 22 order of the DGHS to ban e-cigarettes and similar such projects.

Appearing for the petitioner, senior advocate Sandeep Sethi contended that vaping device is not akin to a cigarette and has been internationally recognised as a healthier alternative to traditional tobacco smoking.

Sethi said that the use of such a device is not just an alternative effective nicotine delivery system but is universally marketed and sold as a substitute for traditional tobacco cigarettes. These devices enable cigarette smokers to switch to safer methods of nicotine consumption without the overreaching harmful impact of cigarettes, he said.

He also said that vaping devices do not contain or use tobacco as an ingredient for functioning which would naturally mean that the several thousand harmful chemicals and tar conventionally inhaled by a traditional tobacco cigarette smoker, in order to also consume nicotine, is not consumed by a user of such vaping devices.

“The principal reason for promoting vaping or an e-cigarette device is de-addiction of the consumer from traditional tobacco smoking. The vaping devices and the alternative delivery system of e-cigarettes operates akin to a nicotine patch or a nicotine gum which is freely sold in the markets and medical stores as a healthier alternative to tobacco smoking for nicotine consumption,” the plea filed through advocate Vivek Raja said.

“Thus, sale (including online sale), manufacture, distribution, trade, import and advertisement of, inter alia, vaping systems/devices are in the interest of public health,” it said.

The matter would be now heard on May 17.

**Source:** <https://www.hindustantimes.com/delhi-news/delhi-high-court-stays-ban-on-sale-of-e-cigarettes-and-vapes/story-H1sXvkwkt3WXwoSz5cwBEK.html>