

# Karnataka HC strikes down rule on stringent tobacco pack warnings

## '2014 rules on graphics unconstitutional'

**KRISHNAPRASAD**  
BENGALURU

Cigarette companies have partially won a legal battle against the Union government, as the Karnataka High Court on Friday declared as unconstitutional the Cigarette and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2014, which had enhanced to 85% the area of pictorial warning on the principal area of cigarette packages and other tobacco products.

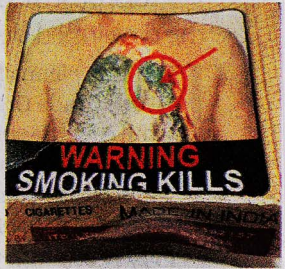
The court, however, made it clear that the 2008 rules – which prescribed that 40% of the pictorial warning be printed on the principal area of the packages – would be in force until the Union government frames a fresh rule or amends the 2008 rules afresh.

A Special Division Bench comprising Justice B.S. Patil and Justice B.V. Nagarathna delivered the verdict on a batch of petitions, filed by the Tobacco Institute of India, cigarette manufacturers like ITC Ltd., and beedi and other tobacco product manufacturers before the High Courts of Karnataka, Calcutta, Delhi, Bombay, Gujarat, and Rajasthan, challenging the 2014 rules. All these petitions were transferred to the Karnataka High Court by the apex court.

### Differing views

Though the Bench came to an unanimous conclusion to strike down the 2014 rules, the judges differed in their views.

Justice Patil held that the Ministry of Health and Family Welfare unilaterally framed the Rules without concurrence of the other departments concerned, and this was a violation of the Article 77 (Conduct of Business of Government of India) and the Transaction of Business (ToB) rules



The pictorial warning on a cigarette pack.

framed under it as the subject of tobacco control and legislation was not attached to one department or Ministry.

The rules were notified, Justice Patil said, even before the Parliamentary Committee on sub-ordinate legislations was examining them. He pointed out that Ministry of Commerce had opposed 85% area for pictorial warning on the ground that it would not result in any benefit and wanted to restrict the warnings to 40% or 50%.

But Justice Nagarathna held that the 2014 rules are not contrary to the ToB and the Article 77, and noted that the rules were notified in October 2015, giving effect to from April 1, 2016, due to an order passed by the Rajasthan High Court even as the Parliamentary Committee was examining the rules.

Both the judges observed that the Parliamentary Committee, in its final report submitted on March 15, 2016, had recommended restricting the area of pictorial warning to 50%. However, she declared that the rules are contrary to Article 19(1)(g) [right to practise any profession, or to carry on any occupation, trade or business] as they are “unreasonable” restrictions imposed “without application of mind or any basis.” Justice Patil did not express his opinion on Article 19(1)(g).