

**GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA**

STARRED QUESTION NO:378

ANSWERED ON:10.05.2006

BAN ON GUTKHA

Appadurai Shri M.;Maheshwari Smt. Kiran

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

- (a) whether a number of people die every year in the country due to consumption of Gutkha, Pan Masala and Tobacco Chewing;
- (b) if so, the details thereof;
- (c) whether the Supreme Court has lifted ban on Gutkha sale recently;
- (d) if so, details thereof, and the reaction of the Union Government thereto;
- (e) the names of the States in the country which have imposed ban on consumption of Gutkha;
- (f) whether the Union Government is contemplating to impose complete ban on consumption of Gutkha and other Tobacco products; and
- (g) if so, the time by which such a decision is likely to be taken by the Union Government?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SMT. PANABAKA LAKSHMI)

(a) to (g): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 378 FOR 10TH MAY, 2006

As per the Report on Tobacco Control in India, it has been estimated that tobacco attributable deaths currently range between 8,00,000 to 9,00,000 per year in India. Research studies conducted in tobacco and oral cancer in India show that the risk of oral cancer increases with the use of tobacco in various forms. It was found that chewing tobacco tended to have a higher risk of oral cancer.

The notifications, prohibiting Sale of Gutkha, issued under Section 7(iv) of Prevention of Food Adulteration (PFA) Act, 1954, by the State Governments of Maharashtra, Andhra Pradesh, Tamil Nadu, Jharkhand and Bihar were quashed by the Supreme Court in its judgement dated 2nd August, 2004 (CA No.4674 of 2004) stating that section 7(iv) of the Act is not an independent source of power for the state authority and that the power of the Food (Health) Authority under the said Rule is only transitory in nature and intended to deal with local emergencies and can last only for short period while such emergency lasts. Therefore, the Hon`ble Supreme Court held that the impugned notifications are unconstitutional and void as abridging the fundamental rights of the appellants guaranteed under Articles 14 and 19 of the Constitution. It further added that the power of the banning an article of food or an article used as ingredients of food, on the ground that it is injurious to health, belongs appropriately to the Central Government to be exercised in accordance with the rules made under Section 23 of the PFA Act.

Consequently, the State of Goa issued `GOA PUBLIC HEALTH (SECOND AMENDMENT)` Ordinance, 2004, promulgated by Governor of Goa on 8th November, 2004, prohibiting manufacture for sale, sell, stock, stored, or exhibited for sale any articles of food containing tobacco or any other ingredient of tobacco.

The Central Government has proposed to ban Gutkha under Prevention of Food Adulteration Rules, 1955. The draft Prevention of Food Adulteration amendment Rules in this regard were published on 28th November, 2005, providing that tobacco and nicotine shall not be used as ingredients in the manufacture of proprietary food products.

The comments received in response to the said draft notification have been examined and the amendment to the Rule is now being finalized.