

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

UNSTARRED QUESTION NO:358

ANSWERED ON:23.11.2012

BAN ON TOBACCO PRODUCTS

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

- (a) whether certain orders/notifications have been issued to ban gutkha and other similar products containing nicotine and tobacco across the country;
- (b) if so, the details thereof along with the mechanism put in place to enforce them, State/UT-wise;
- (c) whether the Government has taken note of manufacturing and sale of tobacco and pan masala in separate pouches by gutkha companies which defeats the purpose of the above ban on gutkha and other similar products;
- (d) if so, the details thereof along with the reaction of the Government thereto; and
- (e) the steps taken/proposed by the Government to impose total ban on cigarette, gutkha, pan masala and other similar tobacco products across the country?

Answer

THE MINISTER OF HEALTH AND FAMILY WELFARE (GHULAM NABIAZAD)

(a) Yes.

(b) The Food Safety and Standards Act, 2006 was enacted with the objective of ensuring availability of safe and wholesome food for human consumption. This Act, as well as the earlier Prevention of Food Adulteration Act 1954, gives a wide definition of 'food' and includes therein any article/substance which is intended for human consumption. In exercise of powers conferred on it under the Food Safety and Standards Act, 2006, the Food Safety and Standards Authority of India (FSSAI) issued the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011 dated 1st August 2011. Regulation 2.3.4 thereof lays down that tobacco and nicotine shall not be used as ingredients in any food products. Further, the Hon'ble Supreme Court in Godawat Pan Masala Vs UOI, 2004 (7) SCC 68 has held that "Since pan masala, gutka or supari are eaten for taste and nourishment, they are all food within the meaning of Section 2

(v) of the (Prevention of Food Adulteration) Act." As such, by virtue of the regulation dated 1st August 2011 issued under the Food Safety and Standards Act, 2006, read with the judgement of the Hon'ble Supreme Court on the issue, since Gutkha products are food products containing tobacco and nicotine, their manufacture, sale or storage is not permitted under law.

Enforcement of this regulation lies with the Commissioners of Food Safety under the state governments, as per the provisions of Food Safety & Standards Act 2006. Ministry of Health & Family Welfare has been regularly sending advisories to the states to implement and enforce the said regulation.

(c) Yes.

(d) The Hon'ble Allahabad High Court, in the cases of M/s. Khedal Lal & Sons Vs. State of U.P, FAC 1981 (1) 262, and Manohar Lal Vs State of U.P, Criminal Revision No. 318 of 1982, has held that Chewing Tobacco is a food article. In view of this, and the regulation dated 1st August 2011 issued under the Food Safety and Standards Act, 2006, this Ministry has written to the state governments to consider examining the issue of banning the sale of gutkha, pan masala, zarda or other chewable products having tobacco and nicotine, with immediate effect.

(e) As specified in (b) and (d) above. However, Cigarettes and bidis are covered under Cigarettes and Other Tobacco Products Act (COTPA) which, in public health interest, prohibits smoking in public places, prohibits their sale to minors or near educational institutions and mandates health warnings on the packs.