

---

**(1992) 09 AP CK 0012**

**In the Andhra Pradesh High Court**

**Case No :** Criminal Appeal No's. 1069 and 1098 of 1989

B. Mukalingam

APPELLANT

Vs

Vuppala Venkata Satyanarayana and Others

RESPONDENT

---

**Date of Decision :** 15-09-1992

**Acts Referred:**

Prevention of Food Adulteration Act, 1954 — Section 9  
Prevention of Food Adulteration Rules, 1955 — Rule 6, 8

**Citation :** (1992) 3 ALT 721 : (1992) 2 APLJ 477 : (1993) CriLJ 1017

**Hon'ble Judges :** G. Radhakrishna Rao, J

**Bench :** Single Bench

**Advocate :** C. Padmanabha Reddy, for the Appellant; C. Sadasiva Reddy and Public Prosecutor, for State, for the Respondent

---

## **Judgement**

1. The Magistrate, while considering the evidence of the Food Inspector, found that he is not a competent person to act as a Food Inspector as he has not fulfilled the requisite qualification required under R. 8 of the Prevention of Food Adulteration Rules. It is against that the present appeal has been filed by the complainant, Sri Mukhalingam alleging that he is qualified person. Under the proviso to Rule 8 of the Rules, it is contended, he is entitled to continue as Food Inspector, as his original appointment was in the year 1966 as Sanitary Inspector; that by virtue of notification issued by the Government in G.O.Ms. No. 313, dated 23-2-1956 all the Sanitary Inspectors are deemed to be the Food Inspectors for the purpose of provisions of this Act and that, therefore, he is competent to continue to act as the Food Inspector.

2. Sri Sadasiva Reddy, learned counsel for the accused, contended that mere fact that the appellant was working as Sanitary Inspector or that a notification has been issued declaring that all Sanitary Inspectors are deemed to be Food Inspectors, does not mean that he is a Food Inspector. According to him, in the light of proviso to R. 8, actually the person, who wants to claim the benefit, must be a person working a Food Inspector as on 1-3-1980. According to Mr. Reddy,

even though the Sanitary Inspector, who was discharging the duties of Food Inspector even before that date without any specific designation, though working as on 1-3-1980 as Food Inspector, is not entitled to be continued as Food Inspector.

3. The appellant was appointed as Sanitary Inspector, Grade-II on 11-10-1966 by proceedings RCC No. 5427/66 p. 5 dated 11-10-1966. His services were regularised with effect from 23-1-1977 by proceedings dated 30-11-1972. Admittedly, he has not possessed the requisite academic qualification for being appointed as Food Inspector. The relevant portion of Notification in G.O. Ms. No. 313, Health, dated 23-2-1956 reads as under :

"NOTIFICATION-I :

xx xx xx

NOTIFICATION-II :

In exercise of the powers conferred by S. 9 of the Prevention of Food Adulteration Act, 1954 (Central Act XXXVII of 1954) the Governor of Andhra Pradesh hereby -

(1) appoints the persons specified in column (1) of the Schedule below to be Food Inspector for purposes of the said Act; and

(2) directs that the persons aforesaid shall exercise powers within the local areas specified in the corresponding entries in column (2) of the said Schedule :

|                                                                                                                                            | Persons | Local |
|--------------------------------------------------------------------------------------------------------------------------------------------|---------|-------|
| areas (1) (2) 1. xx xx xx xx xx xx 2. xx xx xx xx xx xx 3. Sanitary Inspectors Panchayat having a Sanitary Inspector. 4. xx xx xx xx xx xx |         |       |

Rule 8 and proviso thereunder, before amendment, read as under :

"8. QUALIFICATIONS OF FOOD INSPECTOR :

A person shall not be qualified for appointment as Food Inspector, unless he -

(i) is a Medical Officer-in-charge of the health administration of a local area; or

(ii) is a Graduate or a Licentiate in Medicine and has received at least one month's training in food inspection and sampling work approved for the purpose by the Central or the State Government.

(iii) is a qualified Sanitary Inspector having an experience as such for a minimum period of one year and has received at least three months' training in food inspection and sampling work in any of the Laboratories referred to in Clause (i) of R. 6; or

(iv) is a Graduate in Science with Chemistry as one of the subjects or a Graduate in Agriculture, Food Technology or Dairy Technology, and has received at least

three month's training in food inspection and sampling work in any of the Laboratories referred to in Clause (i) of Rule 6;

Provided that a person who is a Food Inspector on the date of commencement of the Prevention of Food Adulteration (Amendment) Rules, 1968, may continue to hold office as such subject to the terms and conditions of service applicable to him, even though he does not fulfil the qualifications laid down in Cls. (i) to (iv)."

4. On a combined reading of the Government order and Rule 8 of the 1968 Rules, it is clear that persons, who worked as Sanitary Inspectors and who were also designated as Food Inspectors for the purpose of the Prevention of Food Adulteration Act, must be deemed to be working as Food Inspectors for the purpose of provisions of the Prevention of Food Adulteration Act. The Amendment to Rule 8 came into force with effect from 1-3-1980. The proviso to Rule 8 as amended reads as follows :

"Provided also that nothing in this rule shall be construed to disqualify any person who is a Food Inspector on the commencements of the Prevention of Food Adulteration (Amendment) Rules, 1980, from continuing as such after such commencement."

So, under Rule 8 before amendment, a person who was working as Sanitary Inspector and by virtue of designation of the notification, discharging the functions of Food Inspector for the purpose of provisions of the Prevention of Food Adulteration Act, can be deemed to be continuing as Food Inspector. If the present amended rule is taken into consideration, if, by 1-3-1980 without having the requisite qualification, one puts in experience coupled with work of Sanitary Inspectors and with a designation, he is entitled to be continued as Food Inspector and the mere fact that a particular designation was not given by 1980, which designation was given only in 1982 as Food Inspector, it shall not be construed that he was not a Food Inspector as on the date of amendment of Rule. In the instant case, the appellant has been working right from 1966 as Sanitary Inspector and also functioning as Food Inspector by virtue of the notifications issued from time to time. The interpretation that "the person must be working", as contended by Mr. Sadasiva Reddy, has no force. This view of mine is strengthened by the decision of a Division Bench of this Court in *S. Janardhana Rao v. K. Paul Reddy* 1983 Cri LJ 248, wherein, while considering rule 8 regarding appointment of Food Inspectors, it was held :

"For a person to function as a Food Inspector it is necessary that he should be appointed by a notification and that he should be a qualified one as prescribed in Rule 8.

The Government is competent to issue a notification appointing as Food Inspectors a class of persons by virtue of office held by them. Therefore, once an appointment is made by virtue of an office any person competent to discharge the functions of the Food Inspector shall be deemed to have been appointed under S. 9 and no separate notification need be made at every time as and when

an officer is either appointed or transferred. It would be only an unnecessary duplication of issue of notifications since the appointment is being made not by name, but by virtue of the office he is holding namely, Sanitary Inspector.

The Andhra Pradesh State Government issued the Notification, G.O. Ms. No. 311, Health, dated 23-3-1956 appointing inter alia all the Sanitary Inspectors working under the Gram Panchayats as Food Inspectors. The Sanitary Inspectors would be deemed to be a class of officers generally by their official titles. Therefore, a Sanitary Inspector of a Gram Panchayat possessing prescribed qualifications is competent to discharge functions of Food Inspector by virtue of the Notification dated 23-2-1956 and it is not necessary to appoint him by a separate notification to be the Food Inspector for the local area assigned to him."

5. The Bench took the view that the Sanitary Inspectors appointed subsequent to the issuance of notification in G.O. Ms. No. 311, dated 23-2-1956 also are entitled to discharge the functions of the Food Inspectors as enjoined in the provisions of the Act. Apart from that Bench judgment my learned brother Upendralal Waghray, J. in W.P. No. 10649/84, which is a case directly dealt with the competency of the appellant herein held :

"In view of the notifications referred to above Sri B. Mughalingam has been appointed as Food Inspector by the Government for the entire State of Andhra Pradesh. The State of Andhra Pradesh has been declared a local area under Clause (vii) of Section 2 of the Act."

So he has been appointed as Food Inspector for the entire State of Andhra Pradesh and he is a Food Inspector under the provisions of the Act.

6. In view of the Judgment in W.P. No. 10649/84, and of the Division Bench, and the interpretation now placed before me based on the Government order and notification, this court finds that Sri Mukhalingam, who was appointed and working as Sanitary Inspector and was also discharging the functions of Food Inspector before 1968 by virtue of notification and also continuing as such till 1-3-1980 and thereafter, is entitled for the benefit of proviso to Rule 8, as amended and he is deemed to be a Food Inspector. The finding of the lower court that he is not a qualified Food Inspector is, therefore, not correct and the same is accordingly set aside.

7. The Criminal appeal is allowed. Criminal Appeal No. 1098 of 1991.

8. Assailing the acquittal of the accused, the State preferred that appeal. In view of the fact that consent order has not been filed, the learned Magistrate gave benefit of doubt. Since the acquittal can be maintained in other grounds, it is not desirable for this court to interfere. Hence, the Criminal Appeal is dismissed.

9. Order accordingly.