

(2011) 02 DEL CK 0472
In the Delhi High Court
Case No : L.P.A. No. 612 of 2010

Bureau of Indian Standards

APPELLANT

Vs

Bottled Water Processors Association and Others

RESPONDENT

Date of Decision : 21-02-2011

Acts Referred:

Bureau of Indian Standards Act, 1986 — Section 14, 34
Prevention of Food Adulteration Rules, 1955 — Rule 49(28)

Citation : (2011) 02 DEL CK 0472

Hon'ble Judges : Dipak Misra, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Ramesh Kumar, for the Appellant; Rama Ahluwalia, for Respondent No. 1, Ruchir Mishra, for Respondent No. 2, Zeenat Masoosi, for Najmi Waziri, for the Respondent

Judgement

Sanjiv Khanna, J.—The Appellant, Bureau of Indian Standards has filed the present appeal against the judgment dated 20th May, 2010 passed in Writ Petition (Civil) No. 11672/2009, M/s Bottled Water Processors Association v. Union of India and Ors. Writ Petition (Civil) No. 11672/2009 The Appellant is aggrieved by the following observations/directions given in the impugned judgment.

22. It is made clear that for violation of relevant provisions of the BIS Act, there is an independent remedy available under that Act. The remedy for violation of the BIS is also available in terms of the PFA Act. One remedy does not exclude the other.

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24. The action is sought to be taken against all the relevant units manufacturing and selling packaged drinking water without a licence and without a BIS Certification Mark. In order to ensure the letter and spirit of the law, a task force be constituted by the Secretary, Ministry of Health & Family Welfare comprising a

senior representative of the Department of PFA and the BIS, GNCTD both nominated by their respective Director Generals and a Senior Representative of the Delhi Police within a period of two weeks from today. The task force will co-ordinate amongst the various departments and constitute special crack units which will undertake surprise checks at various locations of manufacturers of packaged drinking water and initiate strict action in terms of the provisions contained under the PFA as well as the BIS Act and the Rules made under those Statutes.

2. Prevention of Food Adulteration Act, 1954 and Bureau of Indian Standards Act, 1986 are two separate enactments. Violation of the two enactments have to be dealt with separately and by the authorities who have been give duty and responsibility to enforce the said enactment. However, at the same time, it cannot be denied that there is some inter-play between the enactments and need for coordination between the authorities who have been given the responsibility to enforce the enactments. Rule 49(28) of the Prevention of Food Adulteration Rules, 1955 makes the use of BIS mark for packaged drinking water mandatory. The said certification is given by the Appellant on being satisfied about the quality and on meeting the specifications stipulated by them. A fraudulent and wrong use of marks attracts Section 14 read with Section 43 of the Bureau of Indian Standards Act, 1986. Violation of the said section is punishable with imprisonment which may extend to one year and fine which may extend to Rs. 5,000/- or both. u/s 34 of the said Act, courts cannot take cognizance except on a complaint by or under the authority of the Government or the Bureau, any consumer or a recognized association. It is in these circumstances, that the aforesaid observations/directions have been given. The object and purpose is to ensure proper coordination between the two authorities. The object and purpose is not to ask the authorities under the Bureau of Indian Standards Act, 1986, to perform job or work of the authorities under the Prevention of Food Adulteration Act, 1954 or vice versa.

3. We may note that at the time of hearing, an order dated 28th June, 2010, was placed before us. This is an order by the Food Safety and Standards Authority of India, Ministry of Health and Family Welfare. Pursuant to the directions given in the impugned judgment, a task force has been constituted consisting of officers from BIS, New Delhi, Delhi Police and Local (Health) Authority, Department of Prevention of Food Adulteration.

4. In view of the aforesaid position, we do not see any need and necessity to pass any further order or directions. The appeal is accordingly disposed of with the aforesaid observations.