
(2009) 09 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12341 of 2007

Jagmohan Singh Bhatti

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 11-09-2009

Acts Referred:

Citation : (2009) 4 RCR(Civil) 616

Hon'ble Judges : T.S.Thakur;CJ., J and Kanwaljit Singh Ahluwalia, J

Advocate : None for the Appellant, Mr. O.S. Batalvi, Advocate. Mr. Rupinder Khosla, Additional Advocate General, Punjab, Mr. Randhir Singh, Additional Advocate General, Haryana, None., Advocates for appearing Parties

Judgement

Kanwaljit Singh Ahluwalia, J.—A Journal of Dairy Science published an article "The Miracle of Milk" authored by a Dairy Scientist L.L. Rusoff. The article says

"Centuries ago alchemists in laboratories in many lands secretly tried to discover the "elixir of life". This drink or concoction would make it possible for man to have good health, long life and perpetual youth and would enable him to perform miraculous feats, such as the prevention and cure of disease. There were those who would have paid fabulous sums for its discovery"

"It took many years for man to realize that the elixir of life was close at hand, for cow's milk,, recognized all over the world as "nature"s most nearly perfect food," has been performing the feats that were expected of the mythical elixir of life".

2. Undivided Punjab which included Haryana and Chandigarh, known as the land fed by five rivers in proverbial terms carried an epithet "a prosperous land flowing with rivers of milk". Golden times forbade sale of milk to be a sin.

3. The present writ petition has been filed in public interest depicting another kind of sin committed in the present days of commerce i.e. Selling of synthetic milk which is made of chemicals like urea, caustic soda, refined oil and commonly used detergents. This petition also projects ill effects of synthetic milk

on the human body. Concerned with grim situation portrayed in the writ petition, this Court had issued notice of motion. Respective States had filed their response by way of affidavits. On 22.9.2008, this Court noticed as under :

"The affidavits filed on behalf of States of Punjab and Haryana, interalia, set out the number of samples of milk and milk products seized and analysed during the past five years. A closer scrutiny of the figures disclosed in the counter affidavits would show that number of samples taken have dwindled over the years, even when the number of such samples found adulterated has proportionally increased.

M/s Rana and Amol Rattan Singh are unable to explain the reason for the reduced number of the samples taken over the years. This aspect shall, therefore, be explained by the Directors (Health) of the two States who may issue proper directions to the Food Inspectors to take a reasonable number of samples every month to ensure that those indulging in food adulteration and properly dealt with in accordance with law and do not carry an impression that the law is ineffective on account of inaction or apathy on the part of the government agencies".

4. Above mentioned broad contour of the case, requires us to deal with brief facts pleaded and the specific issues raised in the present writ petition. Various news items published in a short span, reporting hue & cry raised regarding sale of synthetic and adulterate milk, compelled the petitioner to approach this Court with a prayer that directions be issued to the Local Health Authority to instruct respective Government Food Inspectors in the Districts to vigorously collect samples of milk and milk products under the provisions of Prevention of Food Adulteration Act, 1954, so that guilty of adulteration of milk and milk items are booked for the offence committed by them. Following excerpts from the article "Synthetic Milk : White Poison" (Annexure P2) written by Mr. Anil Kaura, Director, Dairy Development Department, Punjab has made the petitioner, to raise alarm.

5. "Chemicals like urea, caustic soda, refined oil (cheap cooking oil) and commonly used detergents are used in the preparation of synthetic milk. Detergents are added emulsify and dissolve the oil in water, giving the frothy solution the characteristic white colour of milk.

Refined oil is used as a substitute for milk fat. Caustic soda is added to the blended mixture of chemical and natural milk to neutralize the effect of increased acidity, thereby preventing it from turning sour during transport.

Urea/sugar is added for leveling the contents of solidnotfat (SNF) as are present in the natural milk. The cost of preparing synthetic milk is less than Rs. 3 per liter and it is sold to consumers at a price ranging between Rs. 10 and Rs. 15 per litre after blending with natural milk.

Chemical or synthetic milk looks like natural milk as far physical appearance is concerned, but it is totally different in taste. It does not have any nutritive value. Contrarily, it is a health hazard and harmful if consumed. The use of chemical or

synthetic milk has been found to have cancerous effect on human beings. Urea and caustic soda are very harmful to the heart, liver and kidneys. Presence of urea overburdens the kidneys as they overwork to remove urea contents from the body. Caustic soda, which contains sodium, acts as a slow poison for those suffering from hypertension and heart ailments. Caustic soda also deprives the body from utilizing lysine, an essential amino acid in milk, which is required by growing babies.

Such an artificial milk is harmful for all, but is more dangerous for pregnant women, foetus and persons who are already having heart and kidneys problems".

6. States of Punjab and Haryana have filed their response on identical lines. It has been stated that for implementation of Prevention of Food Adulteration Act, 1954 and Rules, 1955 made thereunder, Director, Health & Family Welfare in the State of Punjab is nominated as "State Health Authority" and all the Civil Surgeons in the State of Punjab have been declared as "Local Health Authorities" and in all the districts Government Food Inspectors have been appointed under the control of Local Health Authority, supervised by Director, Health & Family Welfare. It is further stated that Government Food Inspectors are collecting samples of the milk, which are sent to Food Laboratories and if the samples are found adulterated accused are prosecuted to secure their conviction.

7. We have heard counsel for the parties.

8. Mr. Rupinder Khosla, Additional Advocate General, Punjab and Mr. Randhir Singh, Additional Advocate General, Haryana, both have shared the concern raised in the present petition and are in agreement that all efforts should be made to curb socioeconomic offence of selling adulterated or synthetic milk. They have stated that the offenders selling adulterated milk should be sternly dealt with as the offence is committed out of greed. However, to justify action of the respective States, they have taken refuge in the data and statistics. The following table, of samples, taken in both the States has been relied upon by the respective counsel :

State of Punjab

Year

No. of Samples of milk and milk products seized/analysed

No. of samples found adulterated

2003

1352

151

2004

816

119

2005

951

161

2006

648

99

July 2007

387

67

State of Haryana

Year

No. of Samples of milk and milk products seized/analysed

No. of samples found adulterated

2003

593

212

2004

613

191

2005

685

181

2006

552

176

July 2007

339

91

State of Haryana, +, +

Total, 2782, 851

9. Mr. Khosla has stated that a special drive is launched during festival season to gather samples of milk. The festival season consist of festivals of Rakhi, Dussehra, Bhaiya Dooj, Diwali and Karva Chauth.

10. Mr. Randhir Singh representing the State of Haryana has stated that there are 21 sanctioned posts of Food Inspectors in the States of Haryana, out of which 15 are filled and six posts are lying vacant. He further submitted that in the State of Haryana every Food Inspector has been given target of taking 30 samples per month of food items, whereas counsel for the State of Punjab has stated that 20 districts which form part of State of Punjab and for each district, target of taking samples has been fixed. In large districts, i.e. Amritsar, Gurdaspur and Ludhiana, every month 30, 35, 50 samples, respectively, shall be collected, whereas for other districts, it varies from 10 to 20 samples.

11. We are not happy with the functioning and the role played by the functionaries of Health Department. We are of the view that to punish those who commit offence of adulteration of food items, the Parliament has enacted law in the form of Prevention of Food Adulteration Act, 1954. The State Health Authority, Local Health Authority and Food Inspectors have been appointed. The necessary and adequate machinery is available but the will to act is lacking. Law is in force, officials are in place, infrastructure in form of laboratories has been created, yet offenders who indulge in adulteration of food items prosper. As noticed in the order dated 22.9.2008, collection of number of samples over the years has fallen. Targets fixed are just an eye wash. 30 samples to be gathered from a District having population of many lakhs translate to taking of one sample per day and that too of all the food items.

12. In the ordinary course, it is not the function of the Courts to pull up and to tell the functionaries of the States to act and perform their duty diligently. However, faced with the situation projected in the present case, we do feel that there is a need to nudge the officials, in general public interest.

13. Thus, the present writ petition is disposed of by issuing following directions :

i) The Director, Health Services (State Health Authority) shall, from time to time, call upon the District Health Authorities (Civil Surgeons) to report regarding collection of samples of milk and milk items and shall also review followup action initiated by the District Health Authorities.

ii) The Director, Health Services (State Health Authority) shall also take into consideration the rate of conviction achieved qua the persons, who have been put to trial for various offences under the Prevention of Food Adulteration Act, 1954 and if necessary, shall take all remedial measures, so that the guilty are not acquitted for any lapse on the part of the Prosecuting Agency, or its failure to observe necessary technicalities.

iii) The State Health Authorities shall also redetermine the target to be assigned

to the District Health Authority and Government Food Inspectors more realistically as the existing target noticed by us is inadequate to meet the demands of alarming ground realities.

iv) The District Health Authorities shall launch a special drive/campaign for collection of samples under the Prevention of Food Adulteration Act, 1954 from time to time. This campaign/drive be carried out at random with an element of surprise.

v) Collection of samples shall be effected from both organized and non organized suppliers and vendors.

vi) The respective State Governments may also take adequate action to increase the number of Food Laboratories in order to meet the need of increased number of samples taken by the field staff.

We do hope that the concerned authorities will not fail in the duty assigned to them by the provisions of the Prevention of Food Adulteration Act, 1954, and they will be able to meet the requirements of the time.