

**(2011) 09 AHC CK 0455**  
**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No's. 51745 and 51746 of 2011

Rajesh Kumar Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 29-09-2011

**Acts Referred:**

Food Safety and Standards Act, 2006 — Section 37(2)  
Prevention of Food Adulteration Act, 1954 — Section 9

**Citation :** (2011) 10 ADJ 369

**Hon'ble Judges :** Rajes Kumar, J

**Bench :** Single Bench

**Advocate :** Somesh Khare and Smt. Komal Khare, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

Rajes Kumar, J.—By means of the present writ petition, the petitioners' main relief is for the issue of a writ or direction in the nature of certiorari quashing the impugned notification dated 11.8.2011 issued by the Principal Secretary, Food and Drug Administration, Government of U.P., Lucknow-respondent No. 1. The petitioners claim to be working as Sanitary and Food Inspectors in Nagar Palika Parishad and in Nagar Nigam. They claimed that they have been duly selected by the U.P. Public Service Commission. Under the provisions of Prevention of Food Adulteration Act, 1954, the petitioners have been notified to work as Sanitary and Food Inspectors. The said Act has been repealed on 4.8.2011. There was one more Act named as Food Safety and Standards Act, 2006. Under the said Act, a new rule, namely, Food Safety and Standards Rule, 2011 has been made by the Central Government. Sub Rule (2) of Rule 2.1.3. of the said Rules provides that on the date of commencement of these rules, a person who has already been appointed as a Food Inspector under the provisions of Prevention of Food Adulteration Act, 1954, may perform the duties of the Food Safety Officer if notified by the State/Central Government if the officer fulfils such other conditions as may be prescribed for the post of Food Safety Officer by the State

Government.

2. The State Government has issued impugned notification dated 11.8.2011, which is being challenged in the present writ petition. The notification reads as follows:

3. Heard Sri Somesh Khare, learned counsel for the petitioners and Sri Satish Chaturvedi, learned Additional Advocate General appearing on behalf of the respondents.

4. Learned counsel for the petitioners submitted that in view of Section 9 of the Prevention of Food Adulteration Act, 1954, the petitioners are working as Sanitary and Food Inspectors and they are fully qualified to work as Food Safety Officer and by the impugned notification, the petitioners have been dispensed with to act as Food Inspectors. He submitted that for the issue of the notification under Sub Rule (2) of Rule 2.1.3. of the Food Safety and Standards Rule, 2011, the necessary steps have been taken by the State Government to allow the petitioners to perform the duties of Food Safety Officers and, therefore, the petitioners may be allowed to continue to work as Food Inspectors.

5. Learned Standing Counsel submitted that in Civil Misc. Writ Petition No. 49263 of 2011, the validity of the notification dated 11.8.2011 has been upheld by the Division Bench. He submitted that till date no notification has been issued under Sub Rule (2) of Rule 2.1.3. of the Food Safety and Standards Rule, 2011 and, therefore, the petitioners cannot claim to perform the duties of Food Safety Officers.

6. Having heard learned counsel for the parties, I have gone through the notifications and the various Rules.

7. The Prevention of Food Adulteration Act, 1954 has been repealed on 4.8.2011. There is no dispute in this regard. Under the said Act the petitioners were performing the duties as Food Safety Officers as Food Inspectors. By the impugned notification dated 11.8.2011, it is provided that those Food Inspectors, who have been appointed in the Department of Food Prevention and Medicines Administration and those who are working in the said Department w.e.f. 5.8.2011, will perform the duties of Food Safety Officer and Chief Food Safety Officer. In pursuance of the said notification, the Chief Food Safety Officer wrote a letter to the concerned officer of the Nagar Palika to ask the person working under the provisions of Prevention of Food Adulteration Act, 1954, as Food Sanitary Inspectors to handover their charge to Food Safety Officer, of Food Safety and Medicines Administration Department.

8. In Civil Misc. Writ Petition No. 49263 of 2011, Ram Shakal Yadav and others v. State of U.P. and others, the Division Bench of this Court has upheld the validity of the notification dated 11.8.2011. The Division Bench of this Court has held that the State Government is authorised to confer power of the Food Safety Officer u/s 37 (2) of the Food Safety and Standards Act, 2006. The notification

has been issued under this section.

9. I have no reason to take a different view. In view of the decision of the, Division Bench, the validity of the impugned notification dated 11.8.2011 is upheld.

10. It is not the case of the petitioners that any notification has been issued under Sub-Rule (2) of 2.1.3. of the Food Safety and Standards Rule, 2011 authorising them to perform the duty of Food Safety Officer. Under the said Rule, only those Food Inspectors performing the duties under the provisions of Prevention of Food Adulteration Act, 1954, may perform the duties of the Food Safety Officer if notified by the State/Central Government. Unless there is a notification under the said Sub-Rule (2) of Rule 2.1.3. of the Food Safety and Standards Rule, 2011 to the aforesaid effect. The petitioners, who claim to have been appointed as Food Inspectors under the provisions of the Prevention of Food Adulteration Act, 1954, cannot be allowed to perform the duties of Food Safety Officer. In view of the above, the writ petitions are devoid of merit and are accordingly dismissed.