

(2014) 01 KAR CK 0291
In the Karnataka High Court
Case No : Writ Petition No. 102401 of 2013

Sri Balaji Aqua Products

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 28-01-2014

Acts Referred:

Food Safety and Standards Act, 2006 — Section 3(zh)

Citation : (2014) FAJ 520

Hon'ble Judges : Mohan M. Shantana Goudar, J

Bench : Single Bench

Advocate : Umadevi S. Babshetty, Advocates for the Appellant; Archana P. Tiwari, ASG, Advocates for the Respondent

Judgement

Mohan M. Shantana Goudar, J.—Petitioner has questioned the improvement notice dated 17.6.2013 issued by the Designated Officer, Food Safety and Standards Authority of India (FSSAI) vide Annexure-B by which the said Authority has found certain deviations including non-issuance of BIS/ISI certification of FSSA licence. The case of the petitioner is that it is running the business under the name and style of Sri Balaji Aqua Products. According to the petitioner, it manufactures and supplies purified block ice, tube ice and ice cubes at Bidar. The 4th respondent having noticed that the petitioner has violated the Food Safety and Standards Act, 2006 (FSS Act, 2006 for short) and having found that there is deviation in respect of the BIS/ISI certification of FSSA licence issued notice dated 17.6.2013 as per Annexure-B.

2. Learned counsel for the petitioner submits that petitioner manufactures ice blocks and not packaged drinking water and therefore FSS Act, 2006 may not be applicable to the facts of this case.

The said submission is opposed by the learned advocate appearing on behalf of respondents.

3. The word, "package" is defined under Section 3(zh) of the FSS Act, 2006 and

it reads thus:

"Package" means a pre-packed box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag, wrapper or such other things in which an article of food is packed."

(Emphasis supplied)

4. From the aforementioned definition, it is clear that "package" is prepacked box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag or such other things in which an article of food is packed. Undisputedly, ice is made up of water and unless water is clean, ice cannot be clean. The FSS Act, 2006 is enacted for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and impart and to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto. Ice tubes or ice blocks are manufactured to human consumption only. In otherwords, they are food only. Under such circumstances, the provisions of the FSS Act, 2006 are applicable. If is so, the dictum laid down by the Division Bench of this Court in the case of Lochamesh B. Hugar v. Union of India, New Delhi and Ors. 2013 (3) AKR 56 is applicable to the facts of this case wherein the Division Bench has concluded thus:

1. xxxxxx

2. xxxxxx

3. The respondent authorities are hereby directed to ensure that all necessary steps are taken to prohibit, prevent the manufacture and sale of packaged drinking water without certification from the Bureau of Indian Standards.

4. The respondent authorities are hereby directed to take action against the manufacturers of packaged drinking water if found to be running the units without certification from the Bureau of India Standards.

5. The manufacturers of packaged drinking water shall submit application as prescribed under the Food Safety and Standards Act, 2006 and the Regulations made thereunder and as provided under the Bureau of Indian Standards Act, 1986 for issuance of certification from the Bureau of Indian Standards for manufacture, sale or exhibition of packaged drinking water within 15 days from today.

5. On such submission of application by the manufacturers the authorities concerned shall process the said application within three months from the date of submission of such applications and notify the deficiency if any to be complied by such manufacturers by fixing such time as the authority may so decide taking into consideration the exigencies and not beyond four months.

6. The authorities shall dispose of the said applications submitted by the manufacturers accordingly keeping the time limit fixed herein above and if any of the manufacturers fail to comply with the directions or conditions imposed by the

authorities to bring their units to the standards prescribed under the Act and Regulations, they will be at liberty to proceed in accordance with law. Since the Division Bench has already dealt with the subject in question, this writ petition is liable to be disposed of in terms of the judgment of the Division Bench of this Court. Accordingly, the petition stands disposed of in terms of the judgment of the Division Bench in the case of Lochamesh B. Hugar v. Union of India, New Delhi and Ors., cited supra.