
(2024) 07 RAJ CK 1544

In the Rajasthan High Court, Jodhpur Bench

Case No : Civil Writ Petition No. 10675 Of 2024

Suo Moto In Re- Public Health - Protect The Present And
Safeguard The Future From Food Adulteration

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 01-07-2024

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2024) 07 RAJ CK 1544

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : Akshat Verma

Final Decision : Dismissed

Judgement

Arun Monga, J

1. The important issue involved in this Petition is adulteration in food affecting the health of public at large. Food is essential for sustenance of life. There are different types of food available in the market and on a daily basis, we all depend on various food savories including vegetables, fruits, milk products, cereals, pulses, legumes, agricultural products, etc. Today, entire world is busy with loads of commitments to take care of. This is one of the biggest reasons behind the fact that we give little time to find out whether the food we are consuming every day is healthy and safe or not.

2. Food adulteration is an increasingly recognized global public health problem. Having adulterated food is highly toxic and the same leads to several health issues including certain nutrition deficiency diseases, kidney disorder and failure of an individual's organs including heart, kidney, liver, etc. Adulteration or contamination of natural food product is one of the major challenges in today's society.

3. Multiple reports and studies reveals that food adulteration is causing serious

life threatening diseases like cancer, etc. The studies reveals an alarming picture of declining overall health across the country, pointing to soaring cases of cancer and other life threatening diseases. The increasing number of people in the country are being diagnosed with cancer, marking the fasten rise of such cases worldwide.

4. According to the National Health Services and Food Research Institute, several food products have been adulterated to increase the quantity and make more profit. This practice of adding adulterants to food products are quite common and has been an age old problem throughout the country. By adding cheap and inferior substances to food products, unscrupulous traders increase their volume and sell more at a lower production cost.

5. Food adulteration is on a rise in the country as revealed by various statistics. According to the records of Health and Family Welfare Ministry, more than 20% of our food is either adulterated or substandard. According to a survey, conducted by the Food Safety and Standard Authority of India (for short, "the FSSAI") relating to adulteration of milk, nearly 70% of the milk, adulterated with water, being the most common adulterant. The surprising result of the survey was that even detergent was found to be one of the adulterants which is major health hazard.

6. Following are some of the most common methods adopted to add adulterants in the food products:-

- (A) Adding certain chemicals for faster ripening of fruits and vegetables.
- (B) Mixing of decomposed fruits and vegetables with the good ones.
- (C) Adding certain natural and chemical dyes to attract consumers.
- (D) Mixing of crushed and powdered clay, pebbles, stones and marbles chips to the grains, pulses and other products.
- (E) Cheaper and inferior substances are added wholly or partially with good ones to increase the weight or nature of the product.
- (F) Pesticides which are harmful for health, are commonly used to increase the faster growth of the crops, fruits and vegetables.
- (G) Metallic materials like Lead or Mercury are added to increase the flavour of the food.
- (H) Harmful substances like unauthorised colourings, dyes and dangerous preservatives are added into food items to increase profit and sales.
- (I) Certain products are sold with false information about their expiration date, manufacturing date or ingredients. This misinformation can be dangerous to customer, who rely on accurate labeling.

There are numerous examples where food adulteration takes several forms and

each one of them pose great risk to our health and overall well-being of every living beings.

7. Under Article 21 of the Constitution of India, the Fundamental Right to Life includes safe and healthy life. People are protected under Article 21 of the Constitution of India against the hazardous and injurious food articles and under Article 47 of the Constitution of India, it is the duty of the welfare State to ensure such rights the citizens are protected. The adulteration of food is a subject in the concurrent list of the Constitution of India by which both Central Government and State Governments are quite competent to frame and enact penal laws for prevention of food adulteration.

8. The Prevention of Food Adulteration Act, 1954 was enacted by the Union Legislature to tackle the problem of food adulteration which was rampant in the country. This Act was in operation until it was repealed in 2006 by the Food Safety and Standard Act, 2006 (for short "the Act of 2006"). This Act of 2006 is a comprehensive legislation dealing with various aspects with respect to the regulation of food safety. This Act gives out the responsibility to the Food Authority to notify food laboratories and research institutions, accredited by the National Board of Accreditation (for short, "the NBA") for Testing out Calibration Laboratories or any accreditation agency for analysis of food samples. The food samples are to be taken by the Food Safety Officers. The analysis is to be done by the Food Analysts, appointed by the Commission of Food Safety. This Act provides for penalties and punishment for contravening the provisions of the Act.

9. The Act of 2006 does not provide solutions to all the problems, as various loopholes exist in the same. The unorganized sectors are ignored in the Act of 2006. It contains petty manufacturers, hookers, retailers which contribute a lot to the unorganized sector. It mainly emphasis the processing industry. The primary sector is included in the Act of 2006, but the agricultural sector, producing primary food, is ignored.

10. There are lack of food testing labs to scrutinize the food manufacturing and processing industries which ensures the hygiene quality, safety in the food. The food authority is understaffed and underfunded and is not able to pace up with the increasing number of food industries. Due to lack of proper technology, at the ground level, the food authorities are not competent to monitor the situation. There are doubts about the standard procedures followed by the various laboratories in different States of the Country while scrutinizing the products.

11. The Central Government is well aware of the above situation, that is why, the Ministry of Health and Family Welfare, framed a Food Safety and Standard (Amendment) Bill, 2020 but this Bill of 2020 is lying in cold storage and the same has not got the shape of the statutory Act for the reasons best known to the legislature.

12. The laws are descriptive and the implementation of the legislation is still at its beginning stage and the problem lie in its poor implementation. The Center

and the State Government are expected to take this issue of food adulteration in a serious way to save the lives of all humans and living beings, who are suffering from the serious and life threatening diseases, caused by adulterated unsafe food.

13. To prevent food adulteration, a campaign was initiated, in the year 2020, by the Department of Medical & Health, Government of Rajasthan with the title "Sudh Ke Liye Yudh Abhiyan" and a provision was made for rewarding the informant with an award of Rs.51,000/- for giving information, regarding food adulteration. Even a Committee was constituted under the supervision of the Chief Secretary. State and District Level Committees were constituted including Administrative Officers, Police Officers, Food Safety Officers, Enforcement Officers, Meteorology Officers and Dairy Representatives. The campaign was initiated specially on the occasions of festivals. The Act, the policy and the schemes formulated by the Government deserve to be implemented in their letter and spirit and the same should not remain as a piece of paper in the records only. These campaigns should not be confined to festivals and marriage seasons only but should be given effect on day-to-day basis to curb the rampant increase of food adulteration in the interest of all the living beings.

14. Taking serious note of the situation, a suo-moto cognizance is taken to find out the solutions for good health of all the living beings. Let this petition be registered as :

SUO MOTO : IN RE : "Public Health – Protect the Present and Safeguard the Future from Food Adulteration"

Versus

1. Union of India through Ministry of Home Affairs, New Delhi.
2. Ministry of Health and Family Welfare, National Centre for Disease Control, Directorate of Health Sciences, 22, Shyam Nath Marg, Civil Lines, New Delhi.
3. Food Safety and Standard Authority of India, New Delhi.
4. Department of Agriculture, New Delhi.
5. National Health Services and Food Research Institute, New Delhi.
6. Department of Food and Civil Supplies, New Delhi.
7. State of Rajasthan through Chief Secretary, Government Secretariat, Jaipur.
8. Additional Chief Secretary, Department of Home, Government Secretariat, Jaipur.
9. Additional Chief Secretary, Department of Food Safety, Jaipur.
10. Additional Chief Secretary, Department of Medical, Health & Family Welfare, Jaipur.

15. The issue involved in this Petition requires consideration and appropriate

directions would be issued to the Central as well as the State Government at later stage. By way of interim measure, the following interim directions are issue to the respondents:-

(a) Central and the State Government should take appropriate steps to implement the Act of 2006 in a more effective way.

(b) The State Food Safety Authority (for short 'the SFSA') is directed to identify high risk areas and time so as to ascertain as to where and when there are high chances of adulteration in food articles and accordingly collect the samples from those areas on regular basis.

(c) The SFSA should ensure that there are test Labs which are having well-equipped testing infrastructures and technical persons to handle them.

(d) Measures should be taken by the SFSA and District Authorities for sampling of products on regular basis.

(e) Snapshot summery tests should be conducted periodically at the State, District, Urban and Rural Levels.

(f) State Level Committee, headed by the Chief Secretary and the Additional & Principal Secretary of Health Welfare and Food Department along with District Level Committee, headed by the concerned District Collector shall be constituted to take a review of the work done in curbing the adulteration by the authorities.

(g) The Central Government as well as the State Government and the concerned Departments are directed to set-up a website that will be responsible for creating awareness about complaint mechanism functioning and the responsibilities of the food safety authorities. The website will have the contact details of Food Safety Officers and a toll-free number as well.

(h) Further directions are issued to the Central Government as well the State Government and their Departments to put a check on compliance and unethical practices (if any) used by the Food Authorities and their Officers by evolving the complaint mechanism.

(i) Appropriate steps be taken by the Government for effective implementation of its scheme "Sudh ke Liye Yudh" in its letter and spirit.

(j) The State Government/Food Authority/Commission of Food are directed to circulate message through SMS, FM Radio, Television, Newspapers, Print, Electronics and Social Media to the general public about the ill-effect on the health due to adulteration and educate the children through workshops/seminars in schools etc. in determining adulterated components in food.

(k) Let the compliance report regarding sampling being done on regular basis to check the food adulteration be submitted to his Court on the end of every month along with the steps being taken by the concerned authorities.

(l) Further more directions would be issued to the respondents in future on the

next dates of hearings.

16. All the Senior Advocates at Jaipur including Mr.N.K.Maloo, Mr.Madhav Mitra, Mr.Sanjay Jhanwar, Miss Gayatari Rathore and the Senior Advocates at Jodhpur including Mr.M.S.Singhvi, Mr.Ravi Bhansali, Dr.Sachin Acharya & Dr.Vikas Balia, the Chairman/Vice Chairman of the Bar Council and the Presidents of the Bar Associations and Advocates' Association at Jaipur and Jodhpur are requested to assist this Court for taking appropriate steps and issuing suitable directions for this pious public cause. V.C. link be sent to the Advocates of Jodhpur whenever this matter is listed for hearing. Members of the Bar are also welcome to give their valuable suggestions by submitting written submissions.

17. The Advocate General Mr.Rajendra Prasad, Mr.Bharat Vyas, Additional Advocate General and the Additional Solicitor General Mr.R.D.Rastogi are also requested to assist this Court on behalf of the State and Central Government respectively. The Registry is directed to immediately register this matter as a Suo-Moto Public Interest Litigation, in the name and style mentioned above.

18. Issue notice to the respondents. A copy of this order along with annexures be supplied today itself in the office of the Advocate General and the Additional Solicitor General, for necessary compliance. Similarly, a copy of this order be sent in the office of all the respective Senior Advocates, named above on their email address and WhatsApp mobile number.

19. The Registry is further directed to list this matter before the appropriate Division Bench having roster of 'Public Interest Litigation' on 30.07.2024, after showing the names of all the respective counsels in the cause list.

20. Office is directed to send a copy of this order to the Secretary, Ministry of Health, New Delhi and Chief Secretary for compliance of the interim directions issued by this Court.