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# Food Safety and Standards Act, 2006: Punishment for Unsafe Food in Milk and Milk Products

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## ABSTRACT

*The adulteration of food is a subject in the Concurrent list of the Constitution. Prior to 1954, there were several state laws to regulate the quality of the food. However, there was variance in the provisions of different states and this posed problems in trade between different provinces. The need for a Central legislation was felt. Thus, 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 This Act was in operation until it was repealed in 2006 by the Food Safety and Standard Act, 2006. Along with it, several orders such as the Milk and Milk Products Order, 1992, the Fruit Products Order, 1955, the Meat Food Products Order, 1973, etc. also got repealed by the 2006 Act. There were several defects in the Prevention of Food Adulteration Act, 1954. Thus, to remove those defects and consolidate the laws relating to food safety and standards, the Parliament enacted the Food Safety and Standards Act, 2006 (hereafter referred to as 'FSSA'). This Act repealed all the other laws in force relating to the quality of food. Section 91 of the Act empowers the Central Government to make rules under the Act. Some of these rules enacted by the Government which regulates the standard of food products are: Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011, Food Safety and Standards (Packaging and Labelling) Regulation, 2011, Food Safety and Standards (Laboratory and Sampling Analysis) Regulation, 2011, Food Safety and Standards (Food Product Standards and Food Additives) Regulation, 2011*

**Keywords:** Milk, dairy, Products, Act.

## I. INTRODUCTION

Food is the basic necessity of every human being. The quality of our life depends upon the food what we eat. Lack of healthy food causes malnutrition. India has been the leading producer and consumer of dairy products worldwide since 1998 with a sustained growth in the availability of milk and milk products. Dairy activities form an essential part of the rural Indian economy, serving as an important source of employment and income. India also has the largest bovine

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population in the world. However, the milk production per animal is significantly low as compared to the other major dairy producers. Moreover, nearly all of the dairy produce in India is consumed domestically, with the majority of it being sold as fluid milk. On account of this, the Indian dairy industry holds tremendous potential for value-addition and overall development. The cow, buffalo, sheep, goat and its milk have been held sacred in the world since the dawn of human civilization. Indian ancient Vedic texts describe the virtues of milk and dairy products, as is authenticated by modern scientific principles and proofs. Therefore, milk has been considered as one of the most natural and highly nutritive part of a daily balanced diet. Currently, the integration of advanced scientific knowledge with traditional information is gaining incredible momentum toward developing the concept of potential therapeutic foods. Furthermore, new advances toward understanding the therapeutic roles of milk and milk products have also given a new impetus for unravelling the age old secrets of milk. At present, the best-known examples of therapeutic foods are fermented milk products containing health promoting probiotic bacteria. In the present article, we have tried to review the various aspects of the therapeutic nature of milk and fermented dairy products in a highly up-dated manner, and offer an in-depth insight into the development of targeted therapeutic future foods as per the requirements of consumers.

India has been the leading producer and consumer of dairy products worldwide since 1998 with a sustained growth in the availability of milk and milk products. Dairy activities form an essential part of the rural Indian economy, serving as an important source of employment and income. India also has the largest bovine population in the world. However, the milk production per animal is significantly low as compared to the other major dairy producers. Moreover, nearly all of the dairy produce in India is consumed domestically, with the majority of it being sold as fluid milk. On account of this, the Indian dairy industry holds tremendous potential for value-addition and overall development. According to the latest the dairy market in India reached a value of INR 14899.8 Billion in 2022. Despite this, the majority of the Dairy Industry in India is still highly unorganised dominated by small and marginal dairy farmers. As the industry possesses huge untapped opportunities, it has attracted a number of private companies and investors. In addition, the Indian government has also been taking initiatives towards the development of the dairy sector by providing support to the milk cooperatives and rural milk producers. Moreover, the sustained growth of the Indian economy has led to a rise in the spending power of consumers, rapid urbanisation as well as changes in the dietary patterns. With an increase in the working population, hectic lifestyles and increasing health consciousness among the consumers, there has been a shift towards healthy and ready-to-eat

dairy products.

Milk, our very first food, is surrounded with emotional, cultural, and religious importance. We are habituated since childhood to think of milk as “nature’s most perfect food.” Milk and dairy products have long been acknowledged as an important constituent of a balanced diet. In addition, evidence of health benefits of milk products allied with the presence of specific components or bacteria are progressively gaining established scientific credibility. It is, therefore, logical that among the best-known examples of functional foods are fermented milks and yogurts containing probiotic bacteria. These days, the boundary line between food and medicine is also becoming diffused with the enhanced understanding of food science and technology. Among the various food products, milk has primarily been identified as having a high potential for the health improvement of human beings. It is an optimally rich source of vital nutrients such as proteins, fat, lactose, vitamins, minerals, enzymes, hormones, immunoglobulins, and cells. Dairy products are consumed not only for meeting the nutritional requirements of the consumers, but also for their role in preventing various disorders such as obesity, osteoporosis, dental caries, poor gastrointestinal health, cardiovascular diseases, hypertension, colorectal cancer, bone ailments, ageing and others.

## **II. HISTORICAL PERSPECTIVE**

Ancient Indian literature (Upnishads, Puranas, and Vedas) gives full of evidence of the beneficial and therapeutic properties of milk and milk products. The Rig-Veda describes a cow as Amrutasya nabhih and compares ghee to nectar. Sadhays and Vasus, who tasted cow milk, became immortal, as is said in the Atharva Veda. The milk of Surabhi, which is considered the celestial cow and supreme among all bovines, is useful to humans, as mentioned in the Mahabharata. Milk, according to Bhava Prakasha, is a remedy for the patients of chronic diseases such as epilepsy, jaundice, heart ailments, suppression of stool and urine, spleen enlargement, and piles. Bhava Prakasha states that Dahi acts as an appetizer, tones up a weak person, and also work as an antidote against chronic diseases of kidney. Ayurveda emphasizes the ability of milk to revitalize the energy system of the body. Buttermilk warmed with curry and/ or coriander leaves, turmeric, ginger, and salt is relished in Kerala (India). Milk, according to Ayurveda, is a laxative whereas dahi has the opposite effect of curing diarrhea. Cow’s milk was first used as human food in the Middle East. Goats and sheep were also domesticated in the Middle East between 9000 and 8000 BC. Around 7000 BC, cattle were being herded in parts of Turkey. There is evidence of milk consumption in the British Isles during the Neolithic period, and the use of cheese and butter spread in Europe, and parts of Asia and Africa. Domestic cows,

which previously existed throughout much of Eurasia, were then introduced to the colonies of Europe during the “Age of Exploration.” Russian Scientist Elie Metchnikoff was the first person to notice the beneficial effect of fermented milk products as probiotics (Greek; pro = for, bios = life) or therapeutics in his publication on “Prolongation of Life, 1908”. He found that the colon housed the friendly bacteria similar to those good bugs found naturally in fermented milk such as curd, yogurt, acidophilus milk, cultured buttermilk, etc., called Lactobacillus.

### **III. FOOD SAFETY AND STANDARDS ACT, 2006 AND REGULATIONS, 2011**

As the Parliament has enacted Food Safety and Standards Act, 2006 and Regulations, 2011 which are effective in taking care of the food safety and standards, it becomes, therefore, important to firstly refer to the legislative efforts made by the Union of India. The Parliament has enacted Food Safety and Standards Act, 2006 which is exhaustive on laws relating to food and repeals two other earlier laws relating to prevention of food adulteration. Preamble of the FSS Act, 2006 reads as under:-

*“An Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.”*

Some of the objectives of the Food Safety and Standards Act, 2006 are as follows:

- i. To consolidate the laws relating to Food.
- ii. To establish Food Safety and Standards Authority of India for laying down science based standards for articles of Food.
- iii. To regulate their manufacture, storage, distribution, sale and import.
- iv. To ensure availability of safe and wholesome food for human consumption.

The Act, apart from making more stringent provisions (e.g. prescribing higher penalties etc.) to curb food adulteration, also ushers in new concepts such as putting in place Food Safety Management Systems and Food Safety Audit to realize its ultimate goal of ensuring availability of safe and wholesome Food for human consumption. In order to ensure food safety, effective food safety systems implementation and to ensure that food producers and suppliers operate responsibly and supply safe food to consumers, the Act further stipulates:-

- i. Licensing for manufacture of food products, which is presently granted by the central agencies under various Acts and orders, would stand decentralized to the

commissioner of Food Safety and his officer.

- ii. Single reference point for all matters relating to Food Safety and Standards, regulations and enforcement.
- iii. Shift from mere regulatory regime to self-compliance through Food Safety management systems.
- iv. Responsibility on Food Business Operators to ensure that Food processed, manufactured, imported or distributed is in compliance with the domestic Food laws.

Exercising power under the Act, Central Government constituted the Food Safety and Standards Authority of India (FSSAI). Duties and functions of the Food Safety and Standards Authority have been elaborately dealt with in Section 16 of the FSS Act, which states that it shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food, and shall specify, by regulations, the standards and guidelines in relation to articles of food, mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management systems for food businesses and notify the accredited laboratories, etc. In exercise of powers conferred by Section 91 of the FSS Act, the Central Government framed the Food Safety and Standard Rules, 2011 which came into force on 05.08.2011. In exercise of powers conferred by Clause (o) of Sub-section (2) of Section 92 read with Section 31 of FSS Act, Central Government framed regulations viz. Food Safety and Standards (Licencing and Registration of Food Businesses) Regulations 2011. Under the said Regulation by virtue of Regulation 2.1, all food business and food operators are required to obtain licence and get themselves registered as per the provisions of FSS Regulation, 2011. The definition of the Food Operator, Food business and food are laid down under Section 3(o), 3(n) and 3(j) respectively of FSS Act, 2006. Likewise in exercise of powers conferred by Clause (k) of Sub-section (2) of Section 92 read with Section 23 of FSS Act, Regulations insofar as they relate to Food Safety and Standards (Packaging and Labeling) Regulations, 2011 were made.

#### **IV. CHAPTER III GENERAL PRINCIPLES OF FOOD SAFETY**

**Chapter III of the Food Safety and Standards Act, 2006** deals with the general principles of food safety. The Central Government, the State Governments, the Food Authority and other agencies while implementing the provisions of the Act shall be guided by the principles indicated in Chapter III of the Act, which read as under:-

##### **“CHAPTER III GENERAL PRINCIPLES OF FOOD SAFETY”**

18. General principles to be followed in administration of Act.— The Central Government, the

State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles namely:—

(1) (a) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumers' interests, including fair practices in all kinds of food trade with reference to food safety standards and practices;

(b) carry out risk management which shall include taking into account the results of risk assessment, and other factors which in the opinion of the Food Authority are relevant to the matter under consideration and where the conditions are relevant, in order to achieve the general objectives of regulations;

(c) where in any specific circumstances, on the basis of assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(d) the measures adopted on the basis of clause (c) shall be proportionate and no more restrictive of trade than is required to achieve appropriate level of health protection, regard being had to technical and economic feasibility and other factors regarded as reasonable and proper in the matter under consideration;

(e) the measures adopted shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health being identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment;

(f) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk; and

(g) Where any food which fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class or description, it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

The general principles referred to above are to be followed in the administration of the Act, by

the Central Government, the Food Authority, the State Governments and other agencies, while implementing the Regulations and specifying food safety standards or while enforcing or implementing the provisions of the FSS Act. The Food Authority, while discharging its functions, shall take into account the prevailing practices and conditions in the country, including agricultural practices and handling, storage and transport conditions, including international standards and practices. The Food Authority shall be guided by the general principles of food safety, such as, risk analysis, risk assessment, risk management, risk communication, transparent public consultation, protection of consumers' interest, etc. As per Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011, the Dairy establishment in which dairy based food is being handled, processed, manufactured, stored and distributed and ultimately sold by Food Business Operator should conform to the sanitary and hygienic requirements, food safety measures and other standards as laid down in Part-III of FSS Regulations, 2011. As per Part III of the said FSS Regulations, 2011, specific hygienic and basic sanitary measures are required to be followed by such Food Business Operators. It is compulsory for the milk business operator to submit half yearly return for milk and milk products in form D-2 as provided in Regulation 2.1.13 of Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011.

**Section 19** of the Act stipulates that no article of food shall contain any food additive or processing aid unless it is in accordance with the provisions of the Act and regulations made thereunder. In exercise of its powers conferred under clause (e) of sub-section (2) of Section 92 read with Section 16 of the FSS Act Food Authority made the Food Safety and Standards (Food Products, Standards and Food Additives) Regulations, 2011. The same is intended to regulate and monitor, manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food. Regulation 1.2 defines various categories of milk products as under:-

1.2.1. **“BOILED MILK”** means milk which has been brought to boil;

1.2.3. **DOUBLE TONED MILK** means the product prepared by admixture of cow or buffalo milk or both with fresh skimmed milk, or by admixture of cow or buffalo milk or both that has been standardized to fat and solids-not-fat percentage given in the table below in 2.1.1:1 by adjustment of milk solids. It shall be pasteurized and shall show a negative Phosphatase Test. When fat or dry non-fat milk solids are used, it shall be ensured that the product remains homogeneous and no deposition of solids takes place on standing;

1.2.5. **Flavoured Milk**, by whatever name called, may contain nuts (whole, fragmented or ground) chocolate, coffee or any other edible flavor, edible food colours and cane sugar.

Flavoured milk shall be pasteurized, sterilized or boiled. The type of milk shall be mentioned on the label;

1.2.6. **Full Cream Milk** means milk or a combination of buffalo or cow milk or a product prepared by combination of both that has been standardized to fat and solids-not-fat percentage, given in the table below in 2.1.1:1, by adjustment/addition of milk solids, Full Cream Milk shall be pasteurized. It shall show a negative phosphatase test. It shall be packed in clean, sound and sanitary containers properly sealed so as to prevent contamination;

1.2.10. **MILK** is the normal mammary secretion derived from complete milking of healthy milch animal without either addition thereto or extraction therefrom unless otherwise provided in these regulations. It shall be free from colostrum. Milk of different classes and of different designations shall conform to the standards laid down in the Table below in 2.1.1:1

Total area content in the milk shall not be more than 700 ppm;

1.2.11. **MIXED MILK** means a combination of milk of cow, buffalo, sheep, goat or any other milch animal and may be a combination of any of these milk which has been made and conforms to the standards given in the table below in 2.1.1:1;

1.2.12. **MILK PRODUCTS** means the products obtained from milk such as cream, malai, curd, skimmed milk curd, chhenna, skimmed milk chhenna, cheese, processed cheese, ice-cream, milk ices, condensed milk-sweetened, and unsweetened, condensed skimmed milk-sweetened and unsweetened, milk powder, skimmed milk powder, partly skimmed milk powder, khoa, infant milk food, table butter and desi butter. Milk products shall not contain any substance not found in milk unless specified in the standards;

1.2.16. **RECOMBINED MILK** means the homogenized product prepared from milk fat, non-fat-milk solids and water. Recombined milk shall be pasteurized and shall show a negative Phosphatase test;

1.2.19. **SKIMMED MILK** means the product prepared from milk from which almost all the milk fat has been removed mechanically;

1.2.21. **STANDARDISED MILK** means cow milk or buffalo milk or sheep milk or goat milk or a combination of any of these milk that has been standardized to fat and solids-not-fat percentage given in the table below in 2.1.1:1 by the adjustment of milk solids. Standardised milk shall be pasteurized and shall show a negative Phosphatase Test;

1.2.24. **TONED MILK** means the product prepared by admixture of cow or buffalo milk or both with fresh skimmed milk; or by admixture of cow or buffalo milk or both that has been

standardized to fat and solids-not-fat percentage given in the table below in 2.1.1:1 by adjustment of milk solids. It shall be pasteurized and shall show a negative Phosphatase Test. When fat or dry non-fat-milk solids are used, it shall be ensured that the product remains homogenous and no deposition of solids takes place on standing.

**Chapter 2** of the said Regulations deals with Food Product Standards. As per 2.1.1, the standards of different classes and designation of milk shall conform to both the parameters for milk fat and milk solids-not-fat for various States as indicated in the table thereon. As noticed earlier, Part III of the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011 prescribes specific hygienic and basic sanitary measures to be followed by the Food Business Operators.

**Sections 50 to 65 of FSS Act deal with punishment for contravention of the provisions.** Section 59 of the Act provides for punishment for unsafe food. As per Section 89 of the Food Safety and Standards Act, 2006, provisions of the Act shall have overriding effect over all other food laws. Section 97 (2) repeals any other law for the time being in force in any State at the time of commencement of the Act.

## **V. POSITION UNDER THE INDIAN PENAL CODE, 1860**

Apart from these laws and regulations, there are provisions under the Indian Penal Code too which deal with food adulteration. Chapter XIV of the Code lays down provisions dealing with ‘offences affecting the public health, safety, convenience, decency, and morals’. According to Section 272 and 273, food or drink adulteration or sale of such food or drink is an offence punishable with an imprisonment which may extend to six months or fine or both. However, some states like Uttar Pradesh and West Bengal considered it to be insufficient punishment and made amendments in the provision with respect to punishment in the year 1970. The state amendment has made the offence punishable with imprisonment for life along with the liability of fine.

## **VI. OFFENCES AND PENALTIES**

Section 48 lays down the provision of offences. It provides the circumstances where a person shall be liable for rendering any food item injurious by the various means such as adding to it an article or substance or removing certain elements from the food which results in deterioration of its quality. FSSA provides for penalties and punishments for contravening the provisions of the Act.

The Act consists of a comprehensive list of offences in which the penalties shall be imposed.

- A penalty for selling of food which is not of the quality as per the regulations under the Act. The penalty, in this case, shall not exceed five lakh rupees.
- A penalty for manufacturing for sale, storing, selling, distributing, importing food of sub-standard quality which may extend to five lakh rupees.
- A penalty for manufacturing for sale storing, selling, distributing or importing misbranded food products which may extend to three lakh rupees.
- The Act prohibits misleading or deceptive advertisements and there is a penalty for the same which may extend to ten lakh rupees.
- A penalty is also prescribed for manufacturing, storing, selling, distributing or importing a food product containing extraneous material and such penalty may extend to one lakh rupees.
- The Act imposes a penalty on the food business operator or importer who fails to comply with the provisions of the Act which may extend to two lakh rupees.
- There is a penalty which may extend to one lakh rupees for manufacturing or processing food in unhygienic or unhealthy conditions.
- The Act also imposes a penalty for the possession of adulterant.
- Further, the Act also lays down that if no separate penalty is provided and an act is in contravention to the provisions or regulations of the Act, then a penalty shall be imposed which may extend to two lakh rupees.

Apart from penalties, there are punishments too which are laid down in the Act. The term of imprisonment differs according to different categories.

- Manufacturing for sale or storing or selling or distributing or importing food which is unsafe is punishable under the Act.
- The Food Safety Officer may seize food products and a person who interferes with such seized items is liable for punishment.
- There is punishment for providing false or misleading information.
- Punishment is also laid down for obstructing or impersonating a Food Safety Officer.
- The Act provides for compulsory obtaining of license with the exception in a few cases and a case of non-compliance is punishable under the Act.
- There is a provision for punishment in case of subsequent offences under the Act.

Apart from penalty and punishment, the person contravening the provisions of the Act may also be held liable to pay compensation to the victim or the legal representative of the victim if such contravention has led to death or injury.

## **VII. SECTIONS UNDER WHICH PENALTIES ARE ISSUED**

The provisions relating to offenses and penalties are specified under section 48. Penalties are given from Sections 49-67 of the FSSAI Act.

### **Penalties for being non-compliant under the FSSAI:**

Every business needs to be compliant with the laws and guidelines of the concerned authority and government. The food business needs to be compliant as it has the health of humans on its brink. The penalties under chapter 9 of the FSSAI act, there are the following sections which include the following:

#### **Section 50: Penalty for selling food not of the nature or substance, or quality demanded**

Any person who sells to the purchaser's prejudice any food which is not in compliance with the provisions of this FSSAI Act or the regulations or of the nature or substance or quality demanded by the purchaser shall be liable to a penalty not exceeding five lakh rupees.

They provided that the persons covered under sub-section (2) of section 31 shall, for such non-compliance, be liable to a penalty not exceeding twenty-five thousand rupees.

#### **Section 51: Penalty for sub-standard food**

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any sub-standard food article for human consumption shall be liable to a penalty which may extend to five lakh rupees.

#### **Section 52: Penalty for misbranded food**

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded shall be liable to a penalty which may extend to three lakh rupees.

The Adjudicating Officer may issue a direction to the person found guilty of an offense under this section for taking corrective action to rectify the mistake, or such article of food shall be destroyed.

#### **Section 53: Penalty for misleading advertisement**

Under chapter 9 of the Food safety and standards act, 2006, if any person publishes or is a part of a publication that advertises to falsely describes food and is possible to deceive or trick as to

the nature/substance/or quality of any food or provides a dishonest guarantee, is liable to a penalty which may extend to ten lakh rupees.

#### **Section 54: Penalty for food containing extraneous matter**

Any person, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter shall be liable to a penalty which may extend to one lakh rupees.

#### **Section 55: Failure to comply with the directions of FSO**

If any food business operator or importer fails to comply with the requirements under the act without any basic or reasonable ground is liable to a penalty which may extend to two lakh rupees per the directions of the Food Safety Officer.

#### **Section 56: Penalty for unhygienic or unsanitary processing or manufacturing of food**

Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions shall be liable to a penalty that may extend to one lakh rupees.

#### **Section 57: Possessing Adulterant**

If any person himself or through any other person on his behalf, manufacture/process/imports/sells/or distributes any adulterant, is liable to the below-mentioned penalty:

- A penalty not exceeding two lakh rupees if such adulterant is not injurious to health
- A fine not exceeding ten lakh rupees if such adulterant is injurious to health

The Food Safety and Standards Authority of India (FSSAI) has recommended stringent punishment to curb food adulteration following the Supreme Court order. Those adulterating food products could face life imprisonment and a penalty of up to Rs. 10 lakh as per the amendments proposed by the regulator FSSAI in its 2006 food safety and standards law.

#### **Process for Checking Food Adulteration**

The implementation and enforcement of the Food Safety and Standards Act, of 2006 rests with State Governments. Random samples of food items are drawn by the State Food Safety Officers and sent to the laboratories recognized by the FSSAI for analysis. In cases, where samples are found to contain adulterants, action is taken as per the provision of the FSSAI Act.

#### **Powers of Food Safety Officer**

A food safety officer is the authorized person to inspect the safety and security of food that is

being served in restaurants or street food stalls. In case the food inspected by an officer is not fresh or had got spoiled, the FSSAI officer has all the rights to stop production of such food and issue a warning in writing to the organizer. Further, Food Safety Officer can also search or inspect any place with the help of the police force. Usually, the search is controlled or managed by a search warrant issued under the penal code.

### **Section 58: Contravention of FSSAI Rules**

If any person who violates or opposes the rules and regulations as stated under the FSSAI act is liable to a penalty that may extend to two lakh rupees.

### **Section 59: Punishment for unsafe food**

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe shall be punishable:

- Where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with a fine which may extend to one lakh rupees;
- where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with a fine which may extend to three lakh rupees;
- where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with a fine which may extend to five lakh rupees;
- where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but may extend to imprisonment for life, and with a fine which shall not be less than ten lakh Rupees.

### **Section 60: Punishment for interfering with seized items**

If any person illegally or without the permission of the Food Safety Officer holds/switches/transfers/or damages any such food/vehicle/package/labeling/or advertising matter that has been confiscated, is punishable with imprisonment for a duration which may extend to six months and also with fine which may extend to two lakh rupees.

### **Section 61: Punishment for false information**

If any person gives in false details as required under the FSSAI act is punishable with

imprisonment for a duration which may extend to three months and a fine which may extend to two lakh rupees.

### **Section 62: Punishment for obstructing or impersonating an FSO**

If any person tries to or does threaten/excuse/resist/obstruct/intimidate/or assault the Food Safety Officer (FSO) during his checks or hours of exercising inspection is punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

### **Section 63: Punishment for carrying out a business without an FSSAI license**

If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain a license, manufacturers, sells, stores or distributes or imports any article of food without a permit, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

### **Section 64: Punishment for subsequent offenses**

If any person is found guilty as per the law under the FSSAI act is again commits and is convicted of the same is liable to the following penalty-

- FSSAI license being cancelled
- An additional fine daily which may extend up to one lakh rupees, where the offense is a continuing one
- twice the punishment, which might have been imposed on a first conviction, subject to the sentence being maximum provided for the same offense

### **Section 65: Compensation in case injury or death of consumer**

for any person himself or through any other person on his behalf, manufacture/process/imports/sell/or distributes any article of food inducing injury to the consumer or to his death, shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum-

- not exceeding three lakh rupees in case of grievous injury
- not less than five lakh rupees in case of death
- not exceeding one lakh rupees in all other cases of injury

Note: The compensation is processed six months from the date of occurrence of the incident

and as early as possible. If the case reaches death, an interim relief shall be paid to the next of kin within thirty days of the incident.

### **Section 66: Offences by Companies**

The FSSAI Act prescribes the following penalties for offenses by companies – Private Limited Companies, One Person Companies, and Limited Companies:

Suppose a company has committed an offense under the FSSAI act. In that case, every person in charge of the company when the offense was committed is held responsible and deemed guilty of the crime and shall be liable to be proceeded against and punished accordingly.

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in charge of such establishment, branch, or team nominated by the company as responsible for food safety shall be liable for infringement in respect of such establishment, branch or unit:

Notwithstanding anything in sub-section (1), where a Company has committed an offense under this Act, and it is proved that the offense has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other Office shall also be deemed to be guilty of that offense and shall be liable to be proceeded against and punished accordingly.

### **Section 67: Imports of food in contravention of the FSSAI Act**

If any person who imports any article of food which is in contravention of the provisions of this FSSAI Act, rules and regulations made there under, shall, in addition to any penalty to which he may be liable under the conditions of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and the Customs Act, 1962 (52 of 1962) be also liable under the FSSAI Act and shall be proceeded against accordingly.

Any such article of food shall be destroyed or returned to the importer if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) of the Customs Act, 1962 (52 of 1962), or any other Act, as the case may be.

## **VIII. ADJUDICATION AUTHORITY**

The Act has separate provisions with respect to the adjudication of the matters related to food safety and standards such as compounding of offences, the establishment of Food Safety Appellate Tribunal, etc.

## **IX. CONSUMER PROTECTION BILL, 2018**

The Consumer Protection Bill, 2018 is a revised version of Consumer Protection Bill, 2015 after the Standing Committee referred several changes in it. The Bill seeks to replace the Consumer Protection Act, 1986 and was introduced in the Lok Sabha in January 2018. The bill contains several new provisions to tackle the new challenges posed by the growth and development in the consumer market. With respect to food adulteration laws, the Bill has added certain provisions such as penalties for misleading advertisement as well as manufacturing and selling of adulterated or spurious goods.

## **X. CONCLUSION**

The food adulteration laws have been evolving with the changing needs of the time. Earlier there were different laws for different provinces which were repealed and consolidated by the Prevention of Food Adulteration Act, 1954. However, even this Act could not stand the test of time and had to be repealed due to various defects. The Food Safety and Standards Act, 2006 and the regulations made under the Act comprehensively deal with the issue. However, it is important for the authorities under the Act to be vigilant so that effective results are achieved.

The three most important factors contributing to health are diet, exercise, and genetic factors. People conventionally think that food is food and medicine is medicine, with no overlap between the two. At the end of the 1980s and particularly during the 1990s, interest in the area of relation between milk, milk products, and health was generated and has increased significantly. Nowadays, such products are termed functional, that is, foods that have an effect on health beyond their nutritional Value.

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