

File No. 15017/120/2016- FSSAI/ Legal
Food Safety and Standards Authority of India
A Statutory Authority established under Food Safety and Standards Act, 2006
FDA Bhawan, Kotla Road, New Delhi – 110002

Dated, the 3rd October, 2017

To

The Commissioners of Food Safety/ Officers- in- charge of Food Safety,
All States/ UTs.

Subject- - Cases pending under PFA Act and other orders repealed by FSS Act, 2006
(Schedule 2)- regarding.

Sir/ Madam,

This is in continuation of FSSAI's letters of even number dated 02.08.2016 and 14.07.2017 impressing upon the Commissioners of Food Safety, States/ UTs to take steps to dispose of the long pending court cases filed under erstwhile Prevention of Food Adulteration Act, 1954 and other orders repealed by FSS Act, 2006. In the letter cited later the good work done by States of Goa & Rajasthan was shared.


This is to further apprise that the Commissioner of Food Safety, Gujarat has done exemplary work to reduce the pendency of old cases under PFA Act, 1954. Out of nearly 4329 cases pending in various courts, they have identified 3881 cases mainly concerning sub-standard and mis-branding which could be disposed of by imposing fine only. After the support of the Legal Department of the State Government and the State Legal Services Authority, a special sitting of Judicial Magistrates' Courts was arranged on 9th September, 2017. Based on the discussions, about 1200 cases were disposed of by imposing a fine of Rs 1.25 crores approx.

A copy of the paper prepared by the O/o Commissioner of Food Safety delineating the steps towards closing of court cases filed under PFA Act, 1954 is sent herewith as Annexure for your perusal and for initiating similar action in your State/ UT. Action taken may please be intimated to the FSSAI.

Yours faithfully,



(Raj Singh)
Head (GA/Legal)
Tel. 23220997


11.10.17
(36 letters)

Encl.- As above.

Food Safety and Standards Authority of India
Ministry of Health & Family Welfare
FDA Bhawan Kotla Road,
New Delhi-110002

Action taken by Commissioner of Food Safety, Gujarat to reduce Pendency of old Cases under PFA Act-1954

Since 1st May 1960, Drugs Control Administration started functioning in Gujarat, and from 5th December, 1979 this department has been entrusted duty to look after Food Adulteration. Thereafter department started, implementation of Prevention of Food Adulteration Act 1954, by appointing Food Inspectors, testing of food items and prosecuting wrong doors as per legal provisions of Act. In this functioning, various court cases were launched and court process used to take more than 20 years to finalize the matters and numbers of cases pending before the various courts.

Meanwhile the new Food Safety and Standard Act-2006 was rolled out on 5th August 2011 and repealed the Prevention of Food Adulteration Act 1954. But old cases under PFA Act still running before the various courts. So it has given double burden to the officers and more confusion to run the matters in the court of law.

To reduce the pendency of old cases under PFA Act, Food Safety and Standard Authority of India, New Delhi, wrote a letter dated: 02/08/2016, to all states and instructed that **“Commissioners of Food Safety of all States/UTs may like to examine all pending cases against Food Business Operators under provisions of various enactments & orders repealed on enactment of Food Safety and Standards Act, 2006 and take a view on withdrawal of the same, if considered appropriate. The result of this exercise may please be shared with FSSAI from time to time.”**

Also there were few representations from, Chamber of Commerce and various business associations for withdrawal of old cases under PFA Act. But it was not legal to withdraw the Criminal cases, launched by Government officers.

Meanwhile Hon'ble Supreme Court has given one judgement in Criminal Appeal No. 214/16(case under PFA Act-1954), on dated: - 17/3/2016. In this judgement Hon'ble Supreme Court modified sentence of six-month Imprisonment in to imposing fine of Rs. 50,000/- because the same offence in the new Food Safety and Standards Act- 2006 has maximum penalty is only fine.

Commissioner of Food Safety Gujarat, decided to reduce the pendency of old cases under PFA Act, which are of not serious nature, and coming to the category of Substandard and/or Misbranded as per FSSA – 2006, and covered by judgement of Hon'ble Supreme Court in Criminal Appeal No. 214/16, on dated:- 17/3/2016 can be disposed of by imposing fine only.

Following steps are taken by Food Safety Commissioner, Gujarat to solve the very old court cases running in various courts of Gujarat under Prevention of Food Adulteration Act 1954.

1. **Study of Honorable Supreme Court Judgment:-** The legal branch of FDCA Gujarat first studied Judgement of Hon'ble Supreme Court of India in Cr. Ap. No. 214/2016 (Nemichand v/s State of Rathasthan) it is observed that Hon'ble Supreme Court modified sentence of six-month Imprisonment in to imposing fine of Rs. 50,000/- because the same offence in the new Food Safety and Standards Act- 2006 has maximum penalty is only fine. Accordingly, Cases under P.F.A. Act 1954, which are substandard or misbranded compared with F.S.S. Act 2006, these cases can be disposed by imposing Fine only.”
2. **Formation of Technical Expert Committee:-** Looking in to the matter Commissioner of Food Safety gathered all pending court cases details under P.F.A. Act 1954 from the Designated officers of Gujarat including Corporations. Then by order dated 30.06.2017 formed one expert committee. The committee members were from fields of analysis like Food Analysts of Government Food testing laboratories, legal officers from state and corporations, Designated officers of state and Corporations who are also Doctors. The committee studied around 4500 cases. The committee decided on dated 15.07.2017, that few types of cases, the adulteration of which can be considered of serious nature and such cases fall under category of Unsafe Food as per FSSA 2006 definition. These types of cases shall run in various Hon'ble Courts according to P.F.A. Act 1954. But other types of cases which are not of serious nature can be disposed of by imposing fine only. As per findings of committee against total pending 4329 Cases under P.F.A. Act 1954, total 3881 cases are not of serious nature cases which can be disposed of by imposing Fine only and total 448 cases are of serious nature cases, which shall run in various Hon'ble Courts according to P.F.A. Act 1954. According to P.F.A. Act 1954

fine shall be imposed minimum amount of Rs.1000/- to maximum powers of concern Hon'ble court.

3. **Discussion with the Gujarat State Legal Services Authority:** - The Commissioner of Food Safety, Legal Advisor, Joint Commissioner and Deputy Commissioner had a series of meetings with Hon'ble Executive Chairman of Gujarat State Legal Services Authority, and officials of Gujarat State Legal Services Authority for proper guidance and actions. The Hon'ble Executive Chairman also called meetings of Municipal Commissioners, Health Secretary, Legal Secretary, and famous lawyers and Discuss the judgement of Supreme Court and action plan for disposing of the PFA cases covered by said judgement of Hon'ble Supreme Court. According to the discussion, it was decided that with approval of State Government Cases under P.F.A. Act 1954, which are substandard or misbranded compared with F.S.S. Act 2006, request the Courts to dispose them by imposing fines only, as per Supreme Court Judgement."

4. **Legal Support:-** The whole list of pending court cases running in various district courts of J.M.F.C. and acquittal and conviction appeals are sent to legal department of Gujarat for necessary approval. The legal department and Honourable Legal Minister have also given their consent, to disposed of such cases which are not of serious nature and coming under either Misbranded or Substandard quality, and dispose them off by imposing fine only.

The State Legal Services Authority arranged for Special Sitting on 9th September 2017, in all districts of Gujarat. Also wrote a letter dated 30th August 2017, regarding disposal of old PFA cases.

The Executive Chairman of State Legal Services Authority also arranged a Video Conference with Judicial Magistrates to make them understand in deciding the cases.

5. **Output of Special Sitting of courts :-**Though it was a holiday on 9th September,2017, Judicial Megistrate courts had a special sitting from 10.00 am to 5.00 pm to dispose such cases. On this day courts of Judicial Magistrates in all 31 districts of Gujarat disposed **1200** cases and imposed approximately **Rs. 1,25,00,000/-** fine.