

LEGAL FRAMEWORK FOR ENFORCEMENT OF FOOD SAFETY AND STANDARDS IN INDIA: AN ANALYSIS

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ABSTRACT

Food is a fundamental need for human survival, growth, and overall well-being. In India, food is not just a means to satisfy hunger; it is intertwined with our traditions and culture and is considered divine. However, in the contemporary era, this sanctity of food is gravely undermined by the malicious practice of food adulteration driven by profit motives. In the era of rapid industrialization and the globalization of food markets, ensuring food safety has become a daunting challenge. Today, adulteration has become so rampant that everyday food items, from milk to fruits, from vegetables to grains, carry the dangerous mark of adulteration. Many commonly consumed foods are adulterated largely due to economic greed, supply-and-demand imbalances, and weak regulatory enforcement. Consumption of adulterated food can lead to severe health consequences, ranging from immediate poisoning and long-term life-threatening conditions depending upon the type and quality of adulterants used. To address this growing concern, a comprehensive regulatory framework was established under the Food Safety and Standards Act, 2006, to ensure safe food in India. This article looks into the problem of food adulteration in India. It also explains the existing legal framework for the enforcement of Food Safety and Standards in India, by tracing its historical evolution, enforcement mechanisms, and remedies available under other laws. It further delves into the constitutional and judicial roles in achieving food safety in India.

Keywords: Food Safety and Standards Act, 2006, Food Adulteration, Enforcement, Public Health

I. INTRODUCTION

Food is a fundamental need for our bodies; it provides energy and helps us stay healthy. Humans depend on food for their survival, but this basic need is increasingly compromised by the growing threat of food adulteration. Food Adulteration is the act of purposely lowering the quality of food through the means of adding harmful adulterants or the deprivation of necessary substances. [1] Food adulteration occurs in two ways: intentionally or unintentionally. Intentional adulteration is mostly committed for getting monetary benefits; on the other hand, unintentional adulteration is caused because of ignorance, negligence, etc. [2] In India, common adulteration practices involve hazardous chemicals, such as mixing detergents in milk, using synthetic dyes in spices, and adding formalin to fish. [3] Food adulteration is a growing public health emergency in India. Daily consumables such as fruits, vegetables, meat, fish, and milk available in the market often contain various adulterants, posing serious health hazards. [4] One cannot be sure of the quality of food he/she eats. Indian food standards mandate that food businesses provide safe food to consumers, but several manufacturing units have been accused of failing to adhere to food safety norms, and many others continue to engage in unfair practices and supply substandard food. [5] Several factors, such as economic incentives, a weak regulatory framework, and consumer demand, contribute to the prevalence of food adulteration [6]. Various studies show that food adulteration is prevalent in India. For example, a study published in Science of the Total Environment exposed alarming levels of lead content in turmeric sold in parts of India, which were several times higher than the regulatory limits, which can cause serious lead poisoning, particularly for children. [7] Studies show that nearly 50 % of the food consumed daily is adulterated, and yearly, about 22% of food suffers from adulteration [8]. The Consumption of adulterated food can cause numerous diseases like diarrhea, diabetes, nausea, and cardiovascular disease. [9] To ensure the production of safe food products, the Government enacted the Food Safety and Standards Act, 2006. This Act regulates the manufacture, storage, distribution, sale, and import of food in India. Enforcement of the Act is the responsibility of two authorities: The Food Safety and Standards Authority of India and the State Food Safety Authorities. [10] These authorities monitor the Food Business Operators at all stages of the food business and ensure compliance with the Food Safety and Standards Act [11]. The Food Safety and Standards Authority of India also sets standards

for various food products that Food Business Operators must comply with when manufacturing them. Despite a stringent and comprehensive legal framework, adulteration of foods has increased and remains a challenge driven by enforcement gaps, and a complex supply chain complicating safety assurance.

II. LEGAL FRAMEWORK FOR THE PREVENTION OF FOOD ADULTERATION IN INDIA

To protect people from health hazards caused by adulteration, there are international and national standards. The International Codex Alimentarius Commission (CAC) is the main international body responsible for setting global food standards [12]. In the Indian Constitution, food adulteration is placed on the concurrent list (Entry 18, List III), enabling the Central and State Governments to enact laws on the subject. Access to unadulterated food is not explicitly written in the Constitution. Although it is absent from the literal text, the Supreme Court, in its major rulings, expanded the scope of Article 21 (Right to Life) to protect consumers from adulterated food. It also places a duty on the Government to protect public health.

To ensure the availability of safe food, Parliament enacted the Food Safety and Standards Act, 2006. This law is the fundamental law for the regulation of food products and the formulation and enforcement of food safety standards in India. The Ministry of Health & Family Welfare, Government of India, is the Administrative Ministry responsible for implementing the FSS Act. Previously, the food sector in India was governed by the Prevention of Food Adulteration Act, 1954, and multiple other laws, which led to problems with food standards, trade, consumer safety, and health, as well as a lack of transparency. The Government recognized the urgency of unifying food laws as a prerequisite for stimulating growth in the food processing industry and introduced the Consolidated Food Safety Bill. In 2006, this bill conclusively became the Food Safety and Standards Act (FSS Act). This Act, replaced all previous legislation, including the Prevention of Food Adulteration Act, 1954, and several allied orders, to bring transparency to standards-setting and enforcement and to help achieve a high degree of consumer confidence in the quality and safety of food. [13] The Food Safety and Standards Act was enacted in 2006 and became operational with effect from 05.08.2011. [14] The Act envisages that it seeks 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 the availability of safe and wholesome food for human consumption.

THE INSTITUTIONAL FRAMEWORK OF THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

The Food Safety and Standards Authority Act has different regulatory and executive bodies, namely:

- Food Safety and Standards Authority of India [15]
Food Safety and Standards Authority of India, consisting of a Chairperson and 22 Members, out of which one-third shall be women. The Central Government appoints the Chairperson and Members other than ex officio members of the Food Authority based on the recommendations of the Selection Committee.

Selection Committee [16]
The Central Government constitutes a Selection Committee consisting of five members with the Cabinet Secretary as the Chairperson for designating the Chairperson and the Members other than ex officio members of the Food Authority,
- Officers and Other employees of the Food Authority [17]
The Central Government appoints a Chief Executive Officer (CEO) of the food authority, not below the rank of an Additional Secretary to the Government of India, and other designated employees are determined by the Food Authority with the sanction of the Central Government.
- Central Advisory Committee [18]
The Food Authority includes a Central Advisory Committee. This Committee consists of two members each to represent the interests of the food industry, agriculture, consumers, relevant research bodies, and food laboratories, and the whole commission of food safety, and the Chairperson of the Scientific Committee shall be an ex officio member.

- Scientific Panel [19]
The Food Authority includes a Scientific Panel consisting of independent scientific experts.
- Scientific Committee [20]
The Food Authority encompasses the Scientific Committee, comprising the Chairperson of the Scientific Panel and six independent scientific experts. This Committee shall be responsible for providing the scientific opinion to the Food Authority

III. EXAMINING THE ENFORCEMENT MECHANISMS UNDER THE FSS ACT, 2006

This Act establishes the Food Safety and Standards Authority of India. The FSSAI is responsible for protecting the health and ensuring fair trade practices [21] and enforcement of the provisions of the Act is entrusted on the Food Authority and State Food Safety Authority [22]. These authorities monitor and verify that the legal requirements are met at all stages of the food business [23]. These authorities also maintain systems of control, public communication on safety and risk, food safety surveillance, and other monitoring activities that cover all stages of the food business [24]. The Food Safety Commissioner is the head of the State. The Commissioner of Food Safety shall perform functions such as prohibiting the manufacture, storage, distribution, or sale of any article of food, conducting and organizing training programs, sanctioning prosecution, or such other functions prescribed by the State Government. [25]. As regards the enforcement of food safety in States/UTs, the structure in the States includes a Designated Officer and Food Safety Officers for the day-to-day functioning. The powers of the Designated Officer include issuing or canceling a license of a food business, or prohibiting the sale of any food article which violates any provision of the Act. This Officer sanctions the prosecution in cases of contraventions punishable with a fine or makes recommendations to the Commissioner of Food Safety for sanction to launch prosecution in cases of contraventions punishable with imprisonment. The powers of the Food Safety Officers include taking samples of food articles and getting them tested by a food analyst, seizing any articles of food that appear to be in contravention of this Act, and inspecting any place where the food is manufactured or stored for sale. [26]. The Adjudicating Officer appointed by the State Government under section 68 of the FSS Act is vested with the power to determine the quantum of penalty. The Special Court constituted under section 74 of the FSS Act try offences relating to grievous injury or death of the consumer for which punishment carrying imprisonment exceeding three years. If the offence committed is up to three years must be tried by a court of ordinary jurisdiction under section 42(4)(a) of the FSS Act. The Food Analysts provide crucial scientific support by testing collected samples under section 46, read with section 47 of the FSS Act.

IV. FOOD STANDARDS

Food standards play a paramount role in guiding food businesses to consistently produce quality and safe food products. Standards contain specifications that are to be followed in the food business to ensure that the food products, processes, and services produced are fit for human consumption. Standard in relation to an article of food means the standards notified by the Food Authority. [27] Standards for food products in India are prescribed under various regulations like Food Safety and Standards (Food Product Standards and Food Additives) Regulation, 2011, Food Safety and Standards (Packaging and Labelling) Regulation, 2011, and Food Safety and Standards (Contaminants, Toxins, and Residues) Regulations, 2011. [28]

The FSSAI has prescribed standards for various food products like Dairy products and analogue Fats, oils and fat emulsions, Fruits and vegetable products, Cereal and cereal products, Meat and meat products, Fish and fish products, Sweets & confectionery, Sweetening agents including honey, Salt, spices, condiments and related products, Beverages, (other than dairy and fruits & vegetables based), Other food product and ingredients, Proprietary food, Radiation processing of food, Gluten Free Food. [29] All Food Business Operators (FBOs) in the country have to comply with the Standards when conducting food business. Any breach of the standards fixed by the Food Safety and Standards Authority of India results in violations under the FSS Act.

V. PENALTIES AND COMPENSATION UNDER THE FSS ACT, 2006

Food adulteration is a punishable offense under Section 59 of the FSS Act. [30] The punishment is based on the injury and its severity, and compensatory remedies are provided to the victims or their legal representatives under section 65 of the FSS Act [31] in cases of injury and death.

VI. REMEDIES AVAILABLE UNDER THE PENAL STATUTE AND CONSUMER PROTECTION LAW

a) Remedies available under Penal Statute : Bharatiya Nayaya Sanhita 2023(BNS)

Anybody who adulterates food is punishable under section Section 274 of the Bharatiya Nayaya Sanhita (BNS) [32]. Earlier it was punishable under section 272 of the Indian Penal Code. Under BNS Section 274 Adulteration of food or drink intended for sale is made punishable with an imprisonment of six months, or fine of 5000 rupees or both.

b) Remedies available under the Consumer Protection Act, 2019

Section 84 of the Consumer Protection Act, 2019 [33] deals with the liability of a product manufacturer for any harm, injury, or illness caused by a defective product; the consumer can claim compensation from the manufacturer.

VII. ROLE OF JUDICIARY IN SAFEGUARDING PUBLIC HEALTH AND PREVENTING THE MENACE OF FOOD ADULTERATION

The Judiciary has undoubtedly played a prominent role in protecting the public health by interpreting and enforcing strict liability to safeguard against food adulteration through judicial activism and active supervision. The judicial interventions are evident from various judgments of High Court and Supreme Court. The Supreme Court in *Vincent v. Union of India & Ors* [34] held that “a healthy body is the very foundation of all human activities.” Similarly, in *State of Punjab & Ors v. Mohinder Singh Chawla Etc.* [35], the Supreme Court held that the “Right to Life includes Right to Health”. In *Municipal Corporation of Delhi v. Tek Chand Bhatia* [36], the Supreme Court held that adulteration of food articles is a serious social offense affecting public health, which deserves exemplary punishment. The rampant increase in food adulteration incidents has led to a suo-moto cognizance taken by the Rajasthan High Court in a case *Suo Moto In Re: Public Health - Protect vs Union of India & Ors.* [37], the court held that adulteration of food articles is a serious social offense affecting public health and the people of India. The issue in this case highlights how food adulteration affects individuals' overall health. The court stated that protecting people from hazardous and injurious food is enshrined in Article 21 of the Constitution, and that it is the duty of the state to ensure that this right is protected.

VIII. CONCLUSION AND SUGGESTIONS

For sustaining life on Earth, food is a basic requirement. Food adulteration is on the rise in society and is a slow poison. It not only lowers the quality of food products but also threatens both public health and financial security. Despite a comprehensive legal framework, India still struggles to enforce food safety norms and standards effectively. Adulterated food continues to find its way, reaching supermarket shelves and into our meals. The Food Safety and Standards Act requires Food Business Operators to comply with standards to ensure that the food they manufacture meets legal requirements at all stages of food production. It is both a legal and moral responsibility for the FBO to comply with these standards. The Act also mandates active enforcement by Food Safety regulators by carrying out regular inspections, surveillance, etc. Unfortunately, in practice, the status of food safety standards is obscure due to poor enforcement of laws, which appear to create a weak regulatory environment in India's food sector, with implications for growth and employment prospects. This creates a regulatory gap that is exploited by Food Business Operators, resulting in rampant food adulteration and various food scandals across the country. Rigorous regulatory oversight by the Food Authority and State Food Safety Departments of Food Business Operators is need of the hour to keep the supply chain safe and ensure unadulterated food. On the whole, to ensure unadulterated food and to prevent foodborne illness in the country, there is a need for well-trained, qualified, and professional inspection services, as well as well-coordinated and integrated action. Also, there is a need for stronger enforcement mechanisms to align food standards with international standards, thereby guaranteeing the safety and quality of food sold in Indian markets. Also, the upgradation of the institutional and administrative capacity of the

state food safety machinery, the upgrading of testing and continuous efforts, and the participation of all stakeholders under the Act are required to achieve the true object of the Food Safety and Standards Act, 2006, and eradicate food adulteration from society.

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“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,-(i)where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;(ii)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 fine which may extend to three lakh rupees;(iii)where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;(iv)where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.”
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“(1)if any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it 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-(a)not less than five lakh rupees in case of death;(b)not exceeding three lakh rupees in case of grievous injury; and(c)not exceeding one lakh rupees, in all other cases of injury:”
32. BNS Section 274: “Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”
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