

F. No. 25-23/silver leaf /FSSAI/2017
Food Safety and Standards Authority of India
(A Statutory Authority established under the Food Safety & Standards Act, 2006)
(Regulation division)
FDA Bhawan, Kotla Road, New Delhi-110 002

Dated, the 09th August, 2017

Subject: Order of Hon'ble High Court of Delhi for stay on the effect and operation of Notification on Silver Leaf dated 15th July, 2016 -reg

Food Safety and Standards Authority of India had notified Food Safety and Standards (Food Products Standards and Food Additives) Fifth Amendment Regulations, 2016 related to revision of Standards of Silver Leaf on 15th July, 2016 and date of its commencement was mentioned as 1st August, 2017.

2. However, Hon'ble High Court of Delhi has issued an order dated 28th July, 2017 and stayed the effect and operation of above said notification till the next date of hearing. Therefore, as per the direction of Hon'ble High Court of Delhi, the said notification is not effective and operative till next date of hearing.

3. Copy of order of Hon'ble High Court of Delhi dated 28th July, 2017 is enclosed herewith.



(S. K. Yadav)

Director (Regulatory Compliance)

To

1. All Food Safety Commissioner
2. All Central Designated Offices of FSSAI

Copy for information to:

1. PPS to Chairperson, FSSAI
2. PS to CEO, FSSAI
3. All Directors, FSSAI

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6413/2017 & CM No.26572/2017 (*stay*)

MOHD IMRAN & ORS Petitioner

Through: Mr. Amit Dubey, Adv.

versus

UNION OF INDIA & ANR Respondent

Through: Mr. Debajyoti Behuria, Adv.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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28.07.2017

1. The petitioners before us are in the business of manufacture of silver leaf (*chandi ka warq*). The grievance of the petitioners is that on the recommendations of the respondent No.2 – Food Safety and Standard Authority of India, the respondent No.1 – Union of India has incorporated sub-regulation 2.11.4 in the Food Safety and Standards (Food Products Standards and Food Additives) Regulation, 2011 (hereinafter ‘Regulation 2011’).

2. Prior to the amendment of sub-regulation 2.11.4 of the Regulation 2011, definition of silver leaf (*chandi ka warq*) reads as follows:

“2.11.4 *SILVER LEAF (Chandi-ka-Warq):*
food grade shall be in the form of sheets, free
from creases and folds and shall contain not less
than 99.9 per cent of silver.”

After the amendment, sub-regulation 2.11.4 of the Regulation 2011 reads thus:

*“2.11.4 SILVER LEAF (Chndi-ka-warq):
food grade shall, -*

- (i) be in the form of sheet of uniform thickness, free from creases and folds;*
- (ii) have weight of silver foil upto 2.8 gm/Sq meter;*
- (iii) have silver content of minimum 999/1000 fineness;*
- (iv) not be manufactured using any material of animal origin at any stage;*
- (v) be in accordance with the provisions of the Food Safety and Standards (Contaminants, Toxins and Residues) Regulations, 2011 and the Food Safety and Standards (Packaging and Labelling), Regulations, 2011”.*

3. The petitioners challenge the addition of clause (iv) of sub-regulation 2.11.4 of the Food Safety and Standards (Food Products) Regulations, 2011 *inter alia* on the ground that the same does not contain any contaminants to the quality and characteristic of the silver leaf (*chandi ka warq*); that a complete class of workmen (more than 1,50,000) who are engaged in the manufacture of the silver leaf (*chandi ka warq*) using their skills would be rendered jobless; and that the same is produced by traditional process which is secret knowledge and passed through generations.

4. It is further contended that in case there was any objection or offence to the sentiments of the consumers on account of traditional manufacturing process of the silver leaf (*chandi ka warq*), the same could be raised by directing that the product manufactured by the petitioners are not consumable by vegetarians; and that it could certainly direct labelling of products by petitioners to bear a non-vegetarian mark.

5. The petitioners contend that the amendment to sub-regulation 2.11.4 of the Regulation 2011 has been arbitrarily effected and is in violation of the mandate under the Food and Safety Act, 2006.

6. We are of the view that the issue raised by the petitioners deserves to be considered by the respondent, especially the aspect of labelling and marking the products of the petitioners as non-vegetarian to address the concerns of the consumers.

7. Learned counsel for the petitioners submits that the impugned amendment takes effect from 01.08.2017, which would result in complete prohibition on the business of the petitioners and other persons so placed.

8. In view therefore, it is directed that the writ petition as well as this order shall urgently be placed before the Secretary, Ministry of Health and Family Welfare, Government of India for consideration.

9. Issue notice to show cause as to why rule *nisi* be not issued.

10. Mr. Debajyoti Behuria, Advocate accepts notice for the respondents.

11. Counter affidavit shall be filed after such consideration within two weeks thereafter. Rejoinder thereto, be filed before the next date of hearing.

List on 29.08.2017.

Till the next date of hearing, there shall be stay on the effect and operation of the impugned notification.

A copy this order be given *dasti* under the signatures of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

JULY 28, 2017/pmc