

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 13th March, 2018

To

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

Subject- - Disposal of cases pending under PFA Act and other orders repealed by FSS Act, 2006- regarding.

Sir/ Madam,

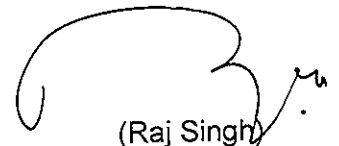
This is in continuation of FSSAI's letters of even number dated 02.08.2016, 14.07.2017 and 03.10.2017 asking Commissioners of Food Safety (CFSS), States/ UTs to take steps to dispose of the long pending court cases filed under erstwhile Prevention of Food Adulteration Act, 1954 and other orders repealed by FSS Act, 2006. In letter dated 14.07.2017 and 03.10.2017 the good work done by States of Gujarat, Goa & Rajasthan was shared for undertaking similar exercise by other States/ UTs. Vide further letter of even number dated 08.12.2017, all CFSS were advised to withdraw, or, at least, not pursue, cases for violation of old norms and standards unless these were still not in conformity with the new/ revised standards so that the avoidable harassment of FBOs could be prevented.

FSSAI feels proud in sharing further the exemplary work done by Government of Gujarat. Through an extensive exercise, they had segregated and identified 3881 cases, out of total of 4239 cases, which could be disposed of/ closed by imposing fine/ cost. Out of these 3881 cases, they have disposed of 1905 cases and realized an amount of Rs. 1,29,70,000 as fine/ cost. They are in the process to take up remaining 1976 cases for disposal in the next special sitting which is being scheduled in near future. A detailed note on the exercise undertaken by the Government of Gujarat is enclosed.

This is to request you to share the outcome of special efforts undertaken in your State/ UT in disposal of pending court cases under PFA Act and other enactments repealed by FSS Act.

Yours faithfully,

Encl.- As above.


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

Best Practice: Reducing Litigation
Disposal of old PFA cases in Gujarat

On 5/8/2011, when the Food Safety and Standards Act, 2006 was made operational, Gujarat State had 4095 cases under PFA pending in different courts. FSSAI in its letter dated 2/8/2016 advised the States to examine old PFA cases and arrange their closure/ withdrawal, if considered appropriate. Various business associations had also been representing for withdrawal of old cases under PFA Act.

2. In a landmark judgement in CA No. 2014/16 on 17/3/2016, the Hon'ble Supreme Court had allowed modification of sentence of six- month Imprisonment under PFA to fine of up to Rs. 50,000/- as the same offence under the FSS Act, 2006 has a maximum penalty of only fine, where food is 'Not Unsafe'. Accordingly, an initiative was taken in the State of Gujarat to reduce the pendency of old cases under PFA Act by forming Technical Expert Committee comprising of all concerned to segregate pending cases in three categories, 'misbranding but not unsafe', 'substandard but not unsafe' and 'unsafe'. The Committee examined 4329 cases and suggested that 3881 cases were in respect of food that were 'Not Unsafe' and could be disposed of with fine only.

3. A uniform judicial procedure was developed for disposal of cases under guidance of "Gujarat State Legal Services Authority" and the same was approved by the State Health and Family Welfare Department and the State Legal Department. As per the guidance of "Gujarat State Legal Services Authority", final list of cases that could be disposed was also sent to State Health and Family Welfare Department for approval and same was accorded.

4. The State Legal Services Authority arranged for Special Sitting on 9th September 2017, in all districts of Gujarat, including High Court for consideration and disposal of the matters. This was followed by a letter dated 30th August, 2017 to concerned Legal Officers at District Level. The Executive Chairman of State Legal Services Authority also arranged a Video Conference with Judicial Magistrates in Districts to incentivize them in the matter.

5. On 9th September 2017 (2nd Saturday holiday), 250 JMFC Courts in 33 Districts had a special sitting whole day and disposed of 1200 cases and realized an amount of Rs. 1,25,00,000/- towards fine/ cost. Hon'ble High Court of Gujarat also disposed of 205 Acquittal Appeals same day and imposed of fine Rs. 45,000/-. In another special sitting organized on 17th December, 2017, the JMFC Courts disposed of 355 cases and High Court 145 cases. Thus, altogether, out of 3881 cases, 1905 cases were disposed of and an amount of Rs. 1,29,70,000/- realized towards fine/ cost.

6. The remaining 1976 cases are to be taken up in next special sitting. The resultant reduction in workload due to disposal of large numbers of cases has enabled the officers of Food Safety Departments to devote more time in constructive work to ensure safe and wholesome food for the citizens of the State. This has also lessened the burden on Judiciary and have made FBOs happier.

For further details, please contact:

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&

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