

केस का सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारीख के साथ
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20.02.2021	<p style="text-align: center;">IN THE COURT OF THE ADJUDICATING OFFICER – CUM – DEPUTY COMMISSIONER, RANCHI</p> <p style="text-align: center;"><u>F.S.S. Case No.-20/2017-1B</u></p> <p>State Through Sri Krishna Prasad Singh Food Safety Officer, Ranchi</p> <p style="text-align: right;">--- Complainant</p> <p style="text-align: center;">-Versus-</p> <p>1-Suresh Chandra Sharma Son of Late K.C. Sharma 2-Rajesh Joshi S/o Shayam Sunder Joshi M/s Rajasthan Kafewalaya, Deputy Para Road Kutchery Chowk Ranchi</p> <p style="text-align: right;">---- Accused</p> <p style="text-align: center;">ORDER</p> <p>Present proceeding has been initiated upon the letter of adjudication submitted vide Memo No.-233 dated 16.12.2017 by the Food Safety Officer, Ranchi and countersigned by DO-Cum-ACMO-1, Ranchi, wherein and whereunder they have prayed for issuance of summon to the accused person to stand trial and be punished U/s 51 of the Food Safety and Standard Act, 2006.</p> <p>Further I find that the DO-Cum-A.C.M.O. -1, Ranchi vide No.-232 dated 16.12.2017 has accorded sanction for the prosecution against the accused.</p> <p>As per the application of adjudication, the complainant is appointed as Food Safety Officer under the provisions of FS&amp;S Act, 2006 and is at presently posted in Ranchi and is employed to collect samples of food for analysis. On 28.09.2017 the Complainant inspected the shop of the accused, where he found that he was selling food in the shop. The complainant intended to take the sample of Anjeer Sweets for the purpose of analysis and issued notice to the accused under Form V(A) intimating his intention. The complainant then purchased Vegetable Anjeer Sweets for the purpose of analysis and thereafter the complainant divided the sample of the food into four parts in packets container and sealed in prescribed manner and wrapped the sample packets with paper slips, duly signed by the Designated Officer bearing</p>	
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serial and Code RAN/1559 and took the signature of the accused on the paper slip and wrapper of the sample packets and thereafter the complainant prepared memorandum in form VI and sent part of the sealed sample alongwith Form VI to Food Analyst for analysis and the remaining parts of the same alongwith Form VI were submitted with the Designated Officer.

As per the report submitted by the Referral Food Laboratory, Kolkata vide Report No.-G-14-22/D.O./2017-460, the sample in question does not conform the standard laid down under the Regulation No.-2.12 of Food Safety and Standards (Food Products and Food Additive) Regulation, 2011 as it show the presence of Glucose and skimmed milk powder in it, which are not declared by manufacturer. BR Reading of the extracted fat value shows presence of extraneous fat other than milk fat in its. Hence the sample is sub-standard as per Section 3 (1) (zx) of FSS Act, 2006

Heard both the parties. The learned Advocate appearing on behalf of the accused argued that:-

The instant complain made against the accused is not maintainable in view of the fact that the mandatory provisions laid under the Act of 2005 has not been complied with by the complainant. As per Sub-Rule 6 of Rule 2.4 of the FS&S Rules, 2011, the Food Safety Officer has to pay the cost of the sample, but in present case, it would be apparent from Para 4 of the application for adjudication that, no payment was made to the accused. As per Sub-Rule 5 of Rule 2.4, the analysis report shall be signed by the Food Analyst and such report shall be sent within fourteen days of the receipt of the sample by the Food Analyst, but in case at hand, the sample was received on 10.10.2017 and the analysis was taken up on 03.11.2017 and completed on 27.11.2017, which is much beyond the period of 14 days. The complainant has not relied upon the report submitted by the Food Analyst Ranchi. In the report of the Food Analyst Ranchi it has been stated that, "Unusual appearance of anjeer sweets with several live insect/sample is in the plastic container". The aforesaid report of the Food Analyst has been falsified by the report of certificate of Analyst by Referral Food

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	<p style="text-align: center;">3</p> <p>Laboratory, Kolkata. The report of the Food Analyst Ranchi has not been produced by the complainant. The Sample was taken on 28.09.2017 and the same was sent to lab on 29.01.2017. The Food Analyst submitted its report on 01.10.2017 i.e. after three days. Upon objection made by the accused, the sample was sent to Referral Food Laboratory Kolkata on 10.10.2017 i.e. after twelve days and as per the report the same was analyzed on 03.11.2017 and completed on 27.11.2017 i.e. after lapse of 36 days. As per the report of referral lab, no insects were found, which goes to suggest the goodness of the sample seized by the complainant.</p> <p>The report of the Referral Food Laboratory being the basis of the present case is also fit to be discarded as the same is based on Regulation 2.12 of the FSS Regulation, 2011 being the proprietary food where no proprietary of Anjeer sweets has been fixed. Hence the sample in question cannot be declared as Sub-standard</p> <p>On the other hand according to the Learned Government Pleader appearing on behalf of the State,</p> <p>The Referral Food Laboratory, Kolkata vide Report No.-G-14-22/D.O./2017-460, declared that the sample in question does not conform the standard laid down under the Regulation No.-2.12 of Food Safety and Standards (Food Products and Food Additive) Regulation, 2011 as it show the presence of Glucose and skimmed milk powder in it, which are not declared by manufacturer. BR Reading of the extracted fat value shows presence of extraneous fat other than milk fat in its. Hence the sample is sub-standard as per Section 3 (1) (zx) of FSS Act, 2006. Thus the accused has committed offence U/s 51 of the FS&amp;S Act, 2006</p> <p>Having heard both the parties and on perusal of report I find that, as per the report submitted by the Referral Food Laboratory, Kolkata vide Report No.-G-14-22/D.O./2017-460, it is proved beyond doubt that the sample in question does not conform the standard laid down under the Regulation No.-2.12 of Food Safety and Standards (Food Products and Food Additive) Regulation, 2011 as it show the presence of Glucose and skimmed milk powder in it, which are not declared by manufacturer.</p>	<p>6</p>

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BR Reading of the extracted fat value shows presence of extraneous fat other than milk fat in its. The sample is sub-standard as per Section 3 (1) (xx) of FSS Act, 2006. Hence I find that the Accused is guilty of Offence U/s 51 of the FSS Act, 2006.

For the reasons aforementioned and taking into consideration the amount of gain and unfair advantage, made as a result of the contravention of the provisions of the Act of 2006 by the accused, this proceeding is concluded with a fine of Rs 2,00,000/- (Rupees Two Lakh only)

Let demand notice be issued upon the accused for recovery of the said penalty in the name of Adjudication Officer-Cum-Deputy Commissioner, Ranchi through Demand Draft and in case the accused fails to deposit the penalty within the time stipulated in the demand notice, the authority concern shall recover the penalty by instituting certificate case under the Bihar Public Demand Recovery Act against the accused as provided U/s 96 of the Food Safety & Standard Act of 2006 and till then the license (if any) of the defaulter shall remain suspended. Further the Designated Officer shall also ensure that, as per Section 31 of the Act of 2006, the accused shall not commence or carry on any food business during the suspension of the Food License of the Accused

Communicate this order to the Food Safety Officer and Designated Officer for information and needful.

Dictated and corrected by me  
  
 Deputy Commissioner  
 Ranchi

  
 Deputy Commissioner  
 Ranchi

order  
 communicated to  
 Food safety officer/  
 Designated officer  
 cum zone sadar  
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 information &  
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