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‘FOOD SAFETY AND THE STREET FOODS’

AUTHORED BY - DR SUMITHRA.R

Assistant Professor, Vivekananda College of Law, Bengaluru

Abstract

Safety of food that one consumes has become a cause for concern today, though we have Food Safety and Standards Act, 2006 (FSSA). The Act has brought in a paradigm shift in regulating the safety of the food sold by all the food business operators, which includes small, big and giant food operators. Erstwhile, family eat out meant dining in a hotel in the neighbourhood. In the guise of globalisation and liberalisation, multinational companies have invaded our food sector causing an apprehension in the minds of a common man. But for the lesser advantaged section of the society, there is no option but to depend on the food sold by the street food vendors. This research paper addresses the issue wherein the FSSA, mandates even the street food vendors to conform with the requirements of the Act, which is a tall order, risking both the vendor and the consumer. If street food vendors have to comply with the requirements under FSSA, they will have to invest more funds which will have a cascading effect on the cost of the food that they sell, jeopardising the consumer. The food articles sold by street vendors are fairly safe, prepared under hygienic conditions, using seasonally and locally available commodities, yet, today the omnipresent highly reputed food joints have caused a drift in the food sector calling for a much needed liberalised law which could protect the interests of all the stakeholders.

Key Words: - Food, Food articles, Safety of food, Street food.

Introduction

Food¹ is one of the basic necessities for sustenance of life. Pure, fresh and healthy diet is most essential for the health of the people as the community health is a national wealth. Safe food and water are basic requirements of public health. Safety refers to all those hazards which make food injurious to health. These hazards may arise from improper agricultural practices, poor hygiene at all stages of the food chain, lack of preventive controls in food processing operations, misuse of chemicals, contaminated inputs or inappropriate storage and handling. Specific concerns about food hazards are chemical and microbiological contaminants, biological toxins, pesticide residues, veterinary drug residues and allergens. It is important for the National Food Control System to ensure that the consumer is protected from unsafe food or adulterated food stuffs. The main scope of this paper is to throw light on the threats and dangers posed by the street food to consumers. The significance of the study is about the importance of making the food safe sold by the street vendors, now that due to varied reasons people who have no access to the kitchen depend on the street food. The research methodology adopted is purely doctrinal.

Way back in British India itself, adulteration of food-stuffs was so rampant, widespread and persistent that nothing short of a somewhat drastic remedy in the form of a comprehensive legislation became the need of the hour. The need for Central legislation for the whole country in this matter was felt in 1937 when a Committee appointed by the Central Advisory Board of Health recommended this step. Laws that existed in a number of States in India for the prevention of adulteration of food stuffs lacked uniformity, since they were passed at different times without mutual consultation between States. To check this kind of anti-social evil, a concerted and determined onslaught was launched by the Government by the introduction of the Prevention of Food Adulteration Act, 1954 (PFAA), which heralded an era of much needed hope and relief for the consumers at large. The objectives of the Act were to protect the public from poisonous and harmful foods, to prevent the sale of substandard foods and to eliminate the fraudulent practices adopted by those who were transacting business in food and other allied

¹ Sec 3(1) (j) FSSA Food means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances: Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

items. The Act envisaged a fight against adulterated food but failed to check and control the widespread prevalence of unsafe food in the market. After a stint of about five decades of PFAA, the flaws in the application and operation of PFAA was palpable which gave way for a more comprehensive legislation i.e., Food Safety and Standards Act, 2006 (FSSA).

FSSA integrated eight different food laws² and is a major transformation that brought paradigm shift in the food regulatory scenario of the country. This Act is based on the standards set by the Codex Alimentarius Commission³ called Codex Standard⁴. The Commission's main goals are to protect the health of consumers and ensure fair practices in the international food trade. Food Safety⁵ considerations include the origins of food including the practices relating to food labelling, food hygiene, food additives⁶ and pesticide residues, as well as policies on biotechnology and food and guidelines for the management of governmental import and export inspection and certification systems for foods. In considering market to consumer practices, the usual thought is that food ought to be safe in the market and the concern is safe preparation and delivery of the food for the consumer from the farm to the fork. This includes a number of routines that ought to be followed to avoid potentially severe health hazards. The tracks within this line of thought are safety between industry and the market and then between the market and the consumer.

Major changes brought about by the FSSA

One of the primary changes that FSSA has brought about is imposing the responsibility of food safety on the manufacturer⁷ for the first time, which was on the Food Inspector under the erstwhile PPFA for examination and prosecution. With the introduction of the supply chain

² Prevention of Food Adulteration Act of 1954, Fruit Products Order of 1955, Meat Food Products Order of 1973, Vegetable Oil Products (Control) Order of 1947, Edible Oils Packaging (Regulation) Order of 1988, Solvent Extracted Oil, De- Oiled Meal and Edible Flour (Control) Order of 1967, Milk and Milk Products Order of 1992 and also any order issued under the Essential Commodities Act, 1955 relating to food.

³ A body that was established in early November 1961 by the Food and Agriculture Organization of the United Nations (FAO), was joined by the World Health Organization (WHO) in June 1962. Sumeet Malik's 'Handbook of Food Adulteration & safety Laws' 1st Edn 2011, Eastern Book Company, Lucknow

⁴ Codex Standards is a collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety. 'Food Safety and Standards Act 2006, Rules, Regulations 2011', 7th Edition 2007, International book company, New Delhi.

⁵ Section 3(1)(q) FSSA Food safety means assurance that food is acceptable for human consumption according to its intended use. 'Food Safety and Standards Act 2006 along with Rules and Regulations 2011', 3rd Edition 2013, Commercial law Publishers (India) Pvt Ltd.

⁶ *Id.* Section 3(1)(k) Any substance not normally consumed as a food by itself or used as atypical ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment

⁷ *Id.* Section 26

concept under the FSSA, the focus will not be on inspection alone but on each person in the food chain-sourcing, manufacturing, storing, distributing- assessed by Food Safety Officers⁸. FSSA prohibits the manufacture, import, storage, sale or distribution of any such article of food which is unsafe, i.e., food whose nature, substance or quality is injurious to health. There are specific responsibilities laid down under the FSSA for the Food Business Operators⁹ (FBOs), for ensuring the safety of food articles. FSSA extends its jurisdiction to all persons by whom food business is carried on or owned under the definition of FBOs. The FSSA also provides for food recall procedures¹⁰ whereby an FBO is required to immediately inform the competent authorities and co-operate with them, if the food which he has placed in the market is unsafe for the consumers.

Many customer friendly steps have been initiated to implement food safety laws like an online licensing portal and online food import clearance system. The procedure for harmonisation of Indian food standards with those of the Codex Standards¹¹ has been introduced. Notified Referral Labs¹² for purpose of food analysis have been established. Creating awareness through mass media for various stakeholders on topics like licensing and registration, misleading claims made by companies, misbranding, adulteration, hygiene practices and safe food messages, checking the safety of the imported food presently at select ports. FSSA will go a long way in boosting the consumer confidence and giving the much-needed boost to the food processing sector. Further, under FSSA, “Food Business”¹³ encircles food services, catering services, sale of food or food ingredients. Indian FBOs range from small time street hawkers to swanky high street food dealers with numerous intermediaries and complex processes and it is indeed a challenge to provide for regulatory oversight from farm to fork.

Section 4 of FSSA, has established the Food Safety and Standards Authority of India (FSSAI), a body corporate, having perpetual succession and a common seal with its head office at New Delhi and branches at different states. It is an autonomous body which is established

⁸ *Id.* Section 38

⁹ *Supra* note 19

¹⁰ *Supra* note 20

¹¹ Codex Standards is a collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety and set by Codex Alimentarius Commission

¹² Section 43 of FSSA 2006

¹³Section 3 (n) Any undertaking (profit or non-profit/public or private) carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution, import

under the Ministry of Health & Family Welfare, Government of India. FSSAI monitors and governs the food business in India. FSSAI ensures that the food products undergo quality checks thereby curtailing the food adulteration, sale of sub-standard products and it lays down the rules and regulation for running the food business in India. It is also responsible for registering and licensing of the FBO in India. Every FBO, involved in the manufacturing, processing, storage distribution and sale of food products must compulsorily obtain FSSAI Registration or License.

The licensing and registration procedure and requirements are regulated by Food Safety & Standards (Licensing and Registration of food Business) Regulations, 2011. Any FBO whose annual turnover is not more than 12 lakh, ought to register with FSSAI. This category includes petty retailer dealing in food products, any person who manufactures or sells any food article, food sale done by the temporary stall holder, any individual who distributes food in any religious or social gathering except a caterer and small-scale or cottage industries dealing in the food business. Registration of the business in food can be initiated by submitting an application. The authorities will have to act on the application within a week's time. If the application is accepted, the department will grant a certificate of registration bearing the registration number along with the photo of the FBO, which the FBO will have to display in the prominent place of business. But, if the application is rejected, the same will be intimated to the FBO. All food businesses having income more than this limit are required to obtain a license.

All other FBOs apart from small scale business FBOs, FSSAI license has to be obtained. FSSAI license can be classified into two categories, namely, State FSSAI License and Central FSSAI License based on the size of the business whether it is a medium scale or large scale business. FBO with small to medium sized manufacturing units, transporters, marketers, traders whose turnover is between Rs 12 lakh to Rs 20 crore need to take FSSAI registration from the state government. FBOs whose annual turnover is more than 20 crore and who are large manufacturers, importers, exporters dealing in large-scale food business have to obtain FSSAI registration from the Central Government.

Unlike in the European countries, in India, mainly in urban areas, hotels, restaurants and supermarkets are not the only sources of food but street food is the major source of people's daily need. According to an estimate of the Food and Agriculture Organisation, which was

released in 2012, over 2.5 billion people eat street food in India every day. Urbanisation and street food go hand in hand. Historically, in places such as ancient Rome, street food was purchased because urban poor did not have kitchens in their homes. Across the globe, street food, sometimes also synonymous with fast food, has become an important part of daily life as local population increasingly struggle to keep pace with their hectic lifestyles. The street vendors offer hot, fresh, lip smacking food items, which is an absolute value for money and has also contributed to its popularity among all sections of the society including the elite and foreign tourists. It is of particular cultural importance to India, where this forms the means of livelihood for many pushcart vendors, dhaba¹⁴ owners and their families.

Today, due to rapid urbanization, there is a large ingress and egress of foot fall in the cities with millions of people having no access to kitchen or other cooking facilities. There are millions of single workers without families and a large floating population who move in and out of the city for various purposes. These people largely depend on street foods for their daily sustenance from places of work, hospitals, railway stations and bus terminals. India has a rich tradition of street food which often reflects the local culture. The food at these shanties is generally prepared and sold under unhygienic conditions, with limited access to safe water, sanitary services and garbage disposal facilities which hinder their ability to provide safe food. Hence street foods pose a high risk of food poisoning due to microbial contamination, as well as improper use of food additives, adulteration and environmental contamination. Street Food hawkers in India are a major challenge in the implementation of FSSAI, who are generally unaware of food regulations and have no formal training in food handling because of which street food is often perceived to be unhygienic and a major health risk. All this necessitates capacity building of street food hawkers.

A survey conducted by the Health Ministry in 16 cities has found that 90 % of the street food is unsafe for consumption¹⁵. An FSSAI study conducted in Kolkata found that the street food is cheap and gives nutritional value in terms of calories but hygienic standards are very unsatisfactory. The quality of water used, the manner of cooking, display and handling of food and waste disposal are all problem areas. The irony is that the FSSAI stipulates uniform standards for all FBOs irrespective of their size, which in essence means that the street food

¹⁴ Dhaba is the name given to roadside restaurants in India and Pakistan. They are situated on highways and generally serve local cuisine. www.oxforddictionaries.com/definition/english/dhaba

¹⁵ Available at <https://www.hindustantimes.com/india/govt-plans-schemes-for-safer-street-food/story-iMPWxf9YJyzBpdGMQuBUVK.html>

vendors are expected to maintain the same food standards as that of five-star hotels. FSSAI does not make a differentiation. How can the same food safety laws be applied to them who are at the two different ends. Although, standards are specified for water to be used as an input in the processing/preparation of food, the FSSA does not specify standards for potable water, which is usually provided by local authorities. Thus, the food providers have to shoulder the responsibility of ensuring that clean water is used. This is a tall order for small food enterprises and street food vendors. If such facilities were provided by the state, especially to small food vendors and street food hawkers, by the state authorities as it happens in Malaysia and Singapore, India would have been more successful in ensuring that this sector also maintains and meets the acceptable standards of hygiene and cleanliness.

The Researcher is of the opinion that the Act restricts the manufacture and supply of economically priced food that serve millions of poor consumers and office-goers every day. The Act does not differentiate between the food products being manufactured by the agribusiness companies and the food products sold by street hawkers and dhabas that dot the national highways. “Both organised sector and unorganised sector are required to follow the same law with regard to specifications on ingredients, traceability and food recall procedures which is very difficult for the unorganised sector entities like street vendors and small hawkers”¹⁶. While the general prescriptions and regulations spelled out by the FSSA, meet the requirements of the agribusiness companies, the same cannot be blindly applied to the small-time hawkers that provide cheaper food to the needy in the urban centres. These food vendors are the lifeline of economically disadvantaged people in urban areas who have no access to kitchen.

Many initiatives were made in the past but these were all sporadic and did not contribute much, as a result, these initiatives were not sustainable. In order to make the street food safe for consumption and to create awareness among the street food hawkers about the need to provide safe food, FSSAI initiated ‘Project Clean Street Food’, under 360-degree approach to food safety and health nutrition on 13th March 2016. This endeavour involves the training and the capacity building of the street food hawkers and ensures proper regulatory oversight over them under FSSA. The training content has been developed by FSSAI in consultation with the subject experts. Training content has been organized under 11 core modules and 5 additional

¹⁶ Ravulapti Madhavi, “Is Food Safety Lurking in The Food Safety and Standards Act 2006?”, Supreme Court Journal, [8th May to 12th June, 2008] Vol 4, p 17-20

modules. This initiative is to ensure hygiene, health and safety and standards of street food for all the consumers, to ensure social economic upliftment of street food vendor community by helping them in improving the quality of food offered, thereby attracting more customers and also to enhance the popularity of street food by transforming it into a global brand by itself.

This project is executed with the Implementation Partners (I P) like State/ Municipal Authority, Panchayat, Civil Society Organisations, Peer leaders among the street vendors, Corporate or any other entity who takes up the ownership of the project implementation with the help of Resource Persons & training of trainers, sensitizing and mobilizing the street vendors and lastly FSSAI Registration and imparting post training support. FSSAI has identified a pool of Resource persons to facilitate the scaling up of the project by training the trainers to be the Certified Trainers across the states. These Certified Trainers in turn train the street food vendors. Each qualified trainer will be conferred with “Trainer Certificate” from FSSAI along with a “Guidance Document to Ensure Food Safety and Hygiene in Street Food Vending”. This project can be taken up by I P on “Area Adoption” approach, wherein the I P will identify the area it wants to adopt for implementing the project. The I P will identify the peer leaders among the vendors and mobilize the vendors in these areas and create awareness among them about this programme. Through the trainers, the I P will train the vendors belonging to the adopted area in batches not exceeding 40 vendors at a time, the duration of the course is 4 hours which can be covered in a single day. After the training, the vendors will be assessed. Each qualified vendor will be given a “Food Safety and Hygiene Kit” which includes “Food Safety Display Board” and this will have to be displayed in stalls by the vendors.

I P with the help of peer leaders shall undertake periodic review of the area and can impart fresh training if there need be. I P can further co - ordinate with the local authorities to facilitate vendors who have adopted the best practices under the Clean Street Food initiative. I P shall make the vendors aware of the requirement and the procedure of the FSSAI registration. I P may help the vendors by taking them to the Common Service Centers. Cost of one-time registration may be factored in the overall expenditure of the project. I P shall have the sole responsibility of managing the finances for the project implementation, can arrange finances on their own or through collaboration with other funding agencies. I P may also utilize the funds available with various skill, educational and vocational schemes of the government including Pradhan Mantri Kaushal Vikas Yojana. Organizations and agencies which are

already imparting training to street vendors or involved in activities related to vendor empowerment, can get associated with this initiative as I P.

Implementation of the Project

In pursuance of this initiative “Clean Street Food - Delhi Project” was launched in March 26th, 2016 in association with Ministry of Skill Development where more than 20,000 street food vendors were trained on food safety and hygiene. In Goa between October 2016 & December 2016, the State FDA took up the implementation of the project with Nestle. About 700 street food vendors were trained on various aspects of food safety and hygiene. During the Eighth National Street Food Festival, 2016, vendors from 24 streets across India took part in the training involving food safety and hygiene. On April 28th, 2017 in Ludhiana, Kinley Parivartan initiated ‘Parivartan- Food Safety & Hygiene Programme’ to train 50,000 street food vendors across India over the next three years.

Conclusion

Some economists have apprehended that the objectives of FSSAI, appears to be directed at eliminating the competition that informal food sector including the street food vendors, dhabas and tiffin carriers pose to the agribusiness companies. As long as food is being sold at such cheap prices by the dhabas and the tiffin carriers, the agribusiness companies will find it difficult to gain a strong foothold in the Indian market. The food offered by the dhabas and the hawkers has generally been found to be more hygienic and fresher than what is offered in the top plush hotels, where many of the delicacies are usually cooked from frozen foods loaded with preservatives. These posh hotels offer cuisines of all seasonal vegetables/fruits at all times throughout the year irrespective of the prevailing season, which automatically implies that cuisines of seasonal fruits and vegetables are made out of frozen fruits and vegetables. Dhabas and street food vendors always buy what is seasonally available in the market and make the cuisine out of it. They do not store seasonal fruits and vegetables and they cannot buy the frozen vegetables/fruits as they are very expensive which will add to the cost of the food. When one eats at these dhabas or street food hawkers, he is sure that he is consuming food prepared out of fresh fruits and vegetables and is not loading oneself with unnecessary preservatives and additives. Therefore, regulations on industrialized and pre - processed food alone won't help much on food safety front in India.

It is a terrifying challenge to tackle the huge variety of food safety- related issues in the context of the country's sheer size, diversity and complexity of food markets. The Indian food industry is dominated by microenterprises and Home-based units. It is thus imperative for policy prescriptions to address these sectors too, before an impact on the overall food safety scenario is felt. The 'Clean Street Food' initiative took off with much fanfare but only to be shelved. Not many street food hawkers know about this initiative, as no publicity was given. If this initiative could gain momentum and function to its full potential, by now all of us could relish food at the road side food shanties nonchalantly without worrying about our health and also the expenses, as the food served by the street food vendors are economical and does not dig a deep hole in our already burnt pockets.

This initiative should be revived and marketed briskly throughout the country as the street food vendors are also the stake holders in the economy. It is very unfortunate that this initiative which took off with great hopes to empower the street food vendors has gathered dust. If we look at the location of the implementation of this initiative, all of them are concentrated in Northern India, totally neglecting the other parts of the country. It is high time that the state realizes its duty of making the availability of safe food even to the last man in the society irrespective of his financial status. The FSSA is endearing only to the big food enterprises and not to the street food vendors. How can the state differentiate between the lives of people who consume food offered by the street vendors and the lives of those who eat in the high-end restaurants. It is these street food vendors who actually cater to the basic needs of the lower strata of the society and they are the lifelines of our urban India. It is inhuman to see the state turn a blind eye to the basic needs of a poor man. The attitude of the state seems to be like "Poor will eat anything".