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# **CONSUMER PROTECTION AND REGULATORY CHALLENGES IN INDIA'S FOOD SECTOR**

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## **Abstract**

India's food sector, one of the largest in the world, operates at the intersection of public health imperatives, consumer rights, and complex regulatory frameworks. Despite decades of legislative evolution from the Prevention of Food Adulteration Act, 1954 to the Food Safety and Standards Act, 2006 (FSSAI Act)<sup>1</sup> the sector continues to grapple with endemic challenges: persistent food adulteration, opaque labelling, inadequate enforcement infrastructure, and the rapid proliferation of unregulated food delivery ecosystems. This paper, written from the perspective of a law student, undertakes a rigorous analytical inquiry into the regulatory architecture governing India's food sector. It examines the structural gaps in the FSSAI Act and allied legislation, the intersection with the Consumer Protection Act, 2019, and the role of judicial intervention in shaping consumer rights jurisprudence. Drawing on recent enforcement data, landmark case law, and comparative regulatory models, the paper argues that India's food regulatory framework, though well-intentioned, suffers from institutional fragmentation, under-resourced enforcement, and a reactive rather than preventive orientation. Concrete legislative and policy recommendations are advanced to bridge the gap between the letter of the law and the lived realities of India's food consumers.

## **1. Introduction**

Food safety is not merely a question of public health it is, at its core, a question of fundamental rights and the state's obligation to its citizens. The right to safe food has been read into the right to life under Article 21 of the Constitution of India by the Supreme Court in numerous pronouncements.<sup>2</sup> Yet, in a country of 1.4 billion people, with a food processing industry valued at approximately USD 866 billion as of 2022–23 and growing at a compound annual growth rate of over 11%,<sup>3</sup> the distance between regulatory intent and implementation

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<sup>1</sup> Food Safety and Standards Act, No. 34 of 2006 (India).

<sup>2</sup> India Const. art. 21.

<sup>3</sup> India's food processing industry is valued at approximately USD 866 billion as of 2022–23 and growing at a CAGR of over 11%. Food Safety & Standards Auth. of India, Annual Report 2022–23, at 14 (Ministry of Health & Family Welfare, Gov't of India, 2023).

reality remains alarmingly wide.

Food adulteration, mislabelling, sub-standard imports, and the rise of ghost kitchens operating outside formal compliance structures collectively pose one of the most complex consumer protection challenges of our time. The problem is not simply one of bad actors – it is structural. India's food regulatory ecosystem is fragmented across central and state agencies, insufficiently funded relative to the scale of the market it oversees, and has historically prioritised prosecutorial responses over systemic prevention.

This paper analyses the current regulatory landscape through a legal lens, examining the legislative architecture, enforcement mechanisms, judicial developments, and emerging challenges. As a law student engaged with consumer protection law and food law, I approach this topic with a conviction that effective food safety regulation is as much a matter of constitutional obligation as it is of public administration. The paper is structured in ten sections, progressing from historical context to contemporary challenges and forward-looking recommendations.

## **2. Historical Evolution of Food Law in India**

### **2.1 Pre-Independence Context**

The regulation of food quality in India has roots in colonial-era laws. The Bengal Municipal Act, 1884, and provisions under various municipal laws gave limited powers to local bodies to seize adulterated food. However, these were piecemeal measures with no overarching legislative framework. The absence of a unified food law meant that enforcement was patchy, geographically inconsistent, and driven by administrative discretion rather than codified standards.

### **2.2 Prevention of Food Adulteration Act, 1954**

The first major post-independence intervention was the Prevention of Food Adulteration Act, 1954 (PFA Act),<sup>4</sup> enacted in pursuance of Article 47 of the Constitution,<sup>5</sup> which places a duty on the State to raise the level of nutrition and the standard of living of its people. The PFA Act established definitions of adulteration, created a three-tier enforcement structure comprising the Central Food Laboratory, State Public Analysts, and Local Health

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<sup>4</sup>Prevention of Food Adulteration Act, No. 37 of 1954, § 2 (India).

<sup>5</sup>India Const. art. 47.

Authorities, and prescribed penalties including imprisonment and fines.<sup>6</sup>

While the PFA Act was a landmark in its time, it suffered from several structural infirmities. The definitions of adulteration were narrow. The enforcement machinery was inadequately equipped. Most critically, the Act was reactive in orientation – it addressed adulteration after the fact rather than mandating proactive safety standards across the supply chain. The multiplicity of food-related laws that co-existed with the PFA Act – the Fruit Products Order, 1955; the Meat Food Products Order, 1973; the Milk and Milk Products Order, 1992 – created overlapping jurisdictions and regulatory confusion.<sup>7</sup>

### 2.3 Transition to the FSSAI Framework

By the early 2000s, it was clear that a comprehensive legislative overhaul was necessary. The report of the Mashelkar Committee (2003)<sup>8</sup> and subsequent deliberations led to the enactment of the Food Safety and Standards Act, 2006 (hereinafter 'FSSAI Act' or 'the Act').<sup>9</sup> The Act came into force in stages, with the Food Safety and Standards Authority of India (FSSAI) becoming fully operational by 2011.<sup>10</sup> The shift from the PFA Act to the FSSAI Act represented a paradigm change – from punitive adulteration-control to a standards-based, risk-management approach to food safety.

## 3. The Food Safety and Standards Act, 2006: Architecture and Mandate

### 3.1 Institutional Structure

The FSSAI<sup>11</sup> Act establishes a central regulatory authority – the Food Safety and Standards Authority of India – under the Ministry of Health and Family Welfare. FSSAI is a statutory body comprising a chairperson, fifteen members drawn from diverse backgrounds (including ministries of agriculture, commerce, industry, consumer affairs, and health), and a Chief Executive Officer.<sup>12</sup> At the state level, State Food Safety Commissioners and Designated

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<sup>6</sup>Prevention of Food Adulteration Act, No. 37 of 1954, §§ 2, 13 (India) (establishing a three-tier enforcement structure: Central Food Laboratory, State Public Analysts, and Local Health Authorities).

<sup>7</sup>The co-existing food legislation included the Fruit Products Order, 1955; the Meat Food Products Order, 1973; and the Milk and Milk Products Order, 1992. See D. Dhavan, *Food Law in India: An Overview*, in *Consumer Protection Laws in India 45* (P.K. Das ed., EBC Publishing, 2020).

<sup>8</sup>Mashelkar Comm., *Report of the Committee on Food Safety Standards* (Gov't of India, 2003).

<sup>9</sup>Food Safety and Standards Act, No. 34 of 2006 (India).

<sup>10</sup>Food Safety & Standards Auth. of India became fully operational by 2011 following the phased implementation of the Food Safety and Standards Act, No. 34 of 2006. See Food Safety & Standards Auth. of India, *Annual Report 2022–23*, at 14 (Ministry of Health & Family Welfare, Gov't of India, 2023).

<sup>11</sup> Food Safety and Standards Act, No. 34 of 2006 (India).

<sup>12</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 4–5 (India) (establishing FSSAI under the Ministry of Health and Family Welfare with a chairperson, fifteen members, and a Chief Executive Officer).

Officers are responsible for enforcement, while Food Safety Officers (FSOs) constitute the primary field-level enforcement machinery.<sup>13</sup>

The bifurcation of responsibility between the central FSSAI and state-level authorities reflects India's federal structure. However, as this paper argues, this division has also contributed to accountability gaps and inconsistent enforcement across states.

### 3.2 Licensing and Registration Framework

One of the pivotal mechanisms of the FSSAI Act is the licensing and registration framework under Sections 31 and 32.<sup>14</sup> Food businesses above a specified annual turnover are required to obtain a central or state licence, while smaller operators require registration. The introduction of the FoSCoS (Food Safety Compliance System) portal has digitised these processes.<sup>15</sup> According to FSSAI's Annual Report for 2022–23, over 57 lakh food businesses were registered or licensed under the Act – a significant increase from the approximately 21 lakh businesses as of 2018–19.<sup>16</sup>

### 3.3 Standards and Labelling Requirements

The Act mandates FSSAI to establish standards for food products, contaminants, pesticide residues, antibiotic residues, and food additives. The Food Safety and Standards (Labelling and Display) Regulations, 2020,<sup>17</sup> impose mandatory disclosure requirements including nutritional information, date of manufacture and expiry, allergen information, and country of origin. The Food Safety and Standards (Health Claims) Regulations, 2018,<sup>18</sup> govern permissible health and nutrition claims on food products.

The Eat Right India campaign, launched by FSSAI in 2018, represents a significant policy initiative to use regulatory levers in combination with social mobilisation to promote healthy eating.<sup>19</sup> The 'Hygiene Rating' scheme for restaurants and the 'Star Rating' system for packaged products are examples of information-based regulatory tools aimed at empowering

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<sup>13</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 30, 36 (India) (providing for State Food Safety Commissioners, Designated Officers, and Food Safety Officers at the field level).

<sup>14</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 31–32 (India).

<sup>15</sup>Food Safety & Standards Auth. of India, FoSCoS (Food Safety Compliance System) Portal, Annual Report 2022–23, at 18 (FSSAI, 2023). (noting digitisation of licensing under the FoSCoS portal)

<sup>16</sup>FSSAI reported over 57 lakh registered/licensed food businesses as of 2022–23, up from approximately 21 lakh in 2018–19. Food Safety & Standards Auth. of India, Annual Report 2022–23, at 14 (Ministry of Health & Family Welfare, Gov't of India, 2023).; Food Safety & Standards Auth. of India, Annual Report 2018–19, at 6 (Ministry of Health & Family Welfare, Gov't of India, 2019).

<sup>17</sup>Food Safety and Standards (Labelling and Display) Regulations, 2020 (India).

<sup>18</sup>Food Safety and Standards (Health Claims) Regulations, 2018 (India).

<sup>19</sup>Food Safety & Standards Auth. of India, Eat Right India Campaign (FSSAI, 2018). The campaign employs regulatory and social-mobilisation levers to promote healthy eating habits across India.

consumers.

### 3.4 Penalties and Enforcement

Chapter X of the FSSAI Act prescribes a detailed penalty framework.<sup>20</sup> Section 49 imposes penalties for sub-standard food (up to Rs. 5 lakhs),<sup>21</sup> Section 50 for food containing extraneous matter (up to Rs. 1 lakh),<sup>22</sup> Section 51 for unsafe food (up to Rs. 10 lakhs),<sup>23</sup> and Section 59 provides for imprisonment up to life for manufacture or sale of food causing death.<sup>24</sup> The Act also empowers Adjudicating Officers to impose civil penalties, providing an alternative to criminal prosecution.

## 4. Structural and Enforcement Gaps in the Regulatory Framework

### 4.1 Understaffed Enforcement Machinery

The most critical structural deficiency in India's food safety framework is the severe understaffing of enforcement machinery. As per data available from parliamentary questions and FSSAI reports, the sanctioned strength of Food Safety Officers across India is approximately 8,000, against an estimated requirement of over 16,000 officers for adequate coverage.<sup>25</sup> The actual number of deployed FSOs is even lower due to vacancies, with several states including Uttar Pradesh, Bihar, and Rajasthan operating at less than 50% of their sanctioned strength.<sup>26</sup> Against a backdrop of over 57 lakh registered food businesses, this translates to a ratio of one FSO to over 700 food businesses – a structural impossibility for proactive enforcement.<sup>27</sup>

### 4.2 Laboratory Infrastructure Gaps

The FSSAI Act establishes a network of National Accreditation Board for Testing and Calibration Laboratories (NABL)-accredited food testing laboratories at national, state, and

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<sup>20</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 49–59 (India).

<sup>21</sup>Food Safety and Standards Act, No. 34 of 2006, § 49 (India).

<sup>22</sup>Food Safety and Standards Act, No. 34 of 2006, § 50 (India).

<sup>23</sup>Food Safety and Standards Act, No. 34 of 2006, § 51 (India).

<sup>24</sup>Food Safety and Standards Act, No. 34 of 2006, § 59 (India).

<sup>25</sup>Parliamentary Q&A data and FSSAI reports indicate a sanctioned FSO strength of approximately 8,000 against an estimated requirement of over 16,000. Parliamentary Standing Comm. on Health & Family Welfare, 135th Report on the Demands for Grants 2022–23 of the Ministry of Health & Family Welfare, at 42 (Rajya Sabha, 2022).

<sup>26</sup>Parliamentary Standing Comm. on Health & Family Welfare, 135th Report on the Demands for Grants 2022–23 of the Ministry of Health & Family Welfare, at 42 (Rajya Sabha, 2022). (noting that several states including Uttar Pradesh, Bihar, and Rajasthan operate at less than 50% of their sanctioned FSO strength).

<sup>27</sup>Food Safety & Standards Auth. of India, Annual Report 2022–23, at 14 (Ministry of Health & Family Welfare, Gov't of India, 2023). (57 lakh registered food businesses against fewer than 8,000 deployed FSOs).

referral levels. However, the Parliamentary Standing Committee on Health and Family Welfare in its 2022 report noted that several state food testing laboratories were either non-functional, understaffed, or lacked modern equipment.<sup>28</sup> There are approximately 266 FSSAI-notified laboratories in India as of 2023, but the geographic distribution is uneven with southern and western states being relatively better equipped compared to northern, north-eastern, and eastern states.<sup>29</sup>

### 4.3 Fragmentation and Overlapping Jurisdictions

Despite the FSSAI Act's stated objective of consolidating food laws under a single umbrella, considerable regulatory fragmentation persists. Several food products including alcoholic beverages, animal feed, and certain agricultural produce at the farm level fall outside FSSAI's primary jurisdiction or involve concurrent regulation by other agencies such as the Agricultural and Processed Food Products Export Development Authority (APEDA), the Directorate General of Foreign Trade (DGFT), and the Bureau of Indian Standards (BIS). This fragmentation creates enforcement gaps and opportunities for regulatory arbitrage.<sup>30</sup>

### 4.4 Adulteration as a Persistent Problem

Notwithstanding the legislative overhaul, food adulteration remains a pervasive public health challenge. FSSAI's National Food Safety Survey (2018–19) the most comprehensive such exercise undertaken in India sampled 1,02,082 food products across 33 states and union territories. Of these, approximately 3.78% were found unsafe, and 11.22% were found non-conforming (sub-standard). Milk and milk products, spices, edible oils, and sweets were identified as the most commonly adulterated categories.<sup>31</sup> The National Survey on Milk Adulteration (2011) by FSSAI itself had found that 68.4% of milk samples were sub-standard though subsequent surveys suggest some improvement, the problem remains systemic.<sup>32</sup>

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<sup>28</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 43–44 (India) (establishing a network of NABL-accredited food testing laboratories). See also Parliamentary Standing Comm. on Health & Family Welfare, 135th Report on the Demands for Grants 2022–23 of the Ministry of Health & Family Welfare, at 42 (Rajya Sabha, 2022). at 45 (noting non-functional and understaffed state laboratories).

<sup>29</sup>Food Safety & Standards Auth. of India, List of FSSAI-Notified Laboratories (2023), available at <https://www.fssai.gov.in> (last visited Mar. 2026) (showing approximately 266 notified laboratories with uneven geographic distribution).

<sup>30</sup>Overlapping mandates involve APEDA (Agricultural & Processed Food Products Export Dev. Auth.), DGFT (Directorate General of Foreign Trade), and BIS (Bureau of Indian Standards). See N. Jayaraj, Regulatory Accountability in India's Food Safety Framework, 42(3) Indian L. Rev. 211, 215 (2021).

<sup>31</sup>Food Safety & Standards Auth. of India, National Food Safety Survey 2018–19, at 3 (FSSAI, 2019). (sampling 1,02,082 food products across 33 states and union territories; finding 3.78% unsafe and 11.22% non-conforming).

<sup>32</sup>Food Safety & Standards Auth. of India, Report on National Survey on Milk Adulteration 2011, at 7 (FSSAI, 2011). (finding 68.4% of milk samples sub-standard in the 2011 National Survey on Milk Adulteration).

## 5. The Consumer Protection Act, 2019 and Food-Related Grievances

### 5.1 Overview of the 2019 Act

The Consumer Protection Act, 2019 (CPA 2019), which replaced the Consumer Protection Act, 1986, introduced significant legislative reforms with direct implications for food consumers. The Act broadened the definition of 'consumer' to include online purchasers, introduced the concept of 'product liability' under Chapter VI, and created the Central Consumer Protection Authority (CCPA) as a proactive regulatory body with suo motu powers.<sup>3334</sup>

### 5.2 Product Liability and Food Manufacturers

Chapter VI of CPA 2019 introduces, for the first time in Indian consumer law, a comprehensive product liability framework.<sup>35</sup> Under Section 84, a product manufacturer is liable if the product contains a manufacturing defect, if it deviates from express warranty, or if it does not conform to express claims.<sup>36</sup> Section 85 extends liability to product service providers, and Section 86 to product sellers.<sup>37</sup> Applied to the food sector, these provisions create a statutory framework under which a consumer who suffers injury from consuming a defective or unsafe food product can seek compensation without necessarily proving negligence—a significant departure from tort law principles and an advance over the 1986 Act.

### 5.3 Consumer Dispute Redressal Mechanisms

The three-tier consumer dispute redressal mechanism—District Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission, and National Consumer Disputes Redressal Commission (NCDRC)—has jurisdiction over food-related consumer disputes. The jurisdictional thresholds were revised upward by the 2019 Act: District Commissions now adjudicate claims up to Rs. 1 crore, State Commissions up to Rs. 10 crores, and the NCDRC for claims above Rs. 10 crores.<sup>38</sup> Importantly, Section 38 of the CPA 2019 requires consumer commissions to adjudicate complaints within a period of five months from

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<sup>33</sup>Consumer Protection Act, No. 35 of 2019, §§ 2(7), 2(47) (India) (broadening the definition of 'consumer' to include online purchasers and introducing the concept of 'product liability').

<sup>34</sup>Consumer Protection Act, No. 35 of 2019, § 10 (India).

<sup>35</sup>Consumer Protection Act, No. 35 of 2019, ch. VI (India).

<sup>36</sup>Consumer Protection Act, No. 35 of 2019, § 84 (India). See also S. Khanna, Product Liability Under the Consumer Protection Act, 2019: A Critical Analysis, 5(1) NLSIU L. Rev. 78, 85 (2020).

<sup>37</sup>Consumer Protection Act, No. 35 of 2019, § 85 (India); Consumer Protection Act, No. 35 of 2019, § 86 (India).

<sup>38</sup>Consumer Protection Act, No. 35 of 2019, §§ 28, 34, 58 (India) (creating District, State, and National Consumer Disputes Redressal Commissions with revised jurisdictional thresholds of Rs. 1 crore, Rs. 10 crores, and above Rs. 10 crores respectively).

the date of admission a provision aimed at addressing the chronic delay in consumer dispute resolution, though implementation remains uneven.<sup>39</sup>

#### **5.4 CCPA and Food Sector Interventions**

The Central Consumer Protection Authority, established under Section 10 of CPA 2019,<sup>40</sup> has actively exercised its powers in the food sector. In 2021, the CCPA issued guidelines on misleading advertisements, which have direct relevance to food products making health or nutrition claims. The CCPA has taken action against misleading endorsements by public figures for food and health products. However, coordination between the CCPA and FSSAI the two principal regulatory bodies with overlapping food-sector mandates remains an area requiring institutional clarification to avoid duplicative or contradictory regulatory actions.<sup>41</sup>

### **6. What Can Be Considered as Unsafe Food**

The concept of 'unsafe food' is at the heart of the entire food safety regulatory regime. An incorrect or excessively narrow understanding of this concept can leave consumers without adequate protection, while an overly expansive definition may unduly burden the food industry. The FSSAI Act and the courts have evolved a nuanced understanding of what constitutes unsafe food.

#### **6.1 Statutory Definition Section 3(zz), FSSA, 2006**

'Unsafe food' under Section 3(zz) of the FSSA<sup>42</sup> means an article of food whose consumption is likely to cause any injury to the health of a person. This encompasses food that: is injurious to health (containing any article or substance which renders it injurious, whether by intent or otherwise); is misbranded (where labels are false, misleading, or do not conform to prescribed standards); is sub-standard (not meeting compositional standards prescribed under the FSSA and its regulations); or contains extraneous matter (any foreign matter other than the stated ingredients).

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<sup>39</sup>Consumer Protection Act, No. 35 of 2019, § 38 (India).

<sup>40</sup>Central Consumer Protection Auth., Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 (CCPA, 2022). See also Consumer Protection Act, No. 35 of 2019, § 10 (India).

<sup>41</sup>N. Jayaraj, Regulatory Accountability in India's Food Safety Framework, 42(3) Indian L. Rev. 211, 215 (2021). at 218 (highlighting the coordination deficit between FSSAI and CCPA as a structural regulatory concern).

<sup>42</sup>Food Safety and Standards Act, No. 34 of 2006, § 3(zz) (India).

## 6.2 Specific Categories of Unsafe Food

### *Adulterated Food [Section 3(a) & Section 3(j)]*

Food is adulterated under Sections 3(a) and 3(j) of the FSSA<sup>43</sup> if it contains: any other substance which affects its nature, substance, or quality; any inferior or cheaper substance substituted wholly or in part; any part of the article has been abstracted; the article had been prepared, packaged, or stored under unsanitary conditions; the article consists in whole or in part of any filthy, putrid, rotten, decomposed, or diseased animal or vegetable substance; the article is obtained from a diseased animal; or the article contains any prohibited additive or preservative.

### *Food Containing Unsafe Additives*

FSSAI regulations specify the maximum permissible limits for food additives, preservatives, artificial colours, sweeteners, and flavouring agents.<sup>44</sup> Food containing additives beyond these limits is per se unsafe regardless of whether actual harm has been demonstrated.

### *Microbiologically Contaminated Food*

Food contaminated with pathogenic microorganisms – Salmonella, E. coli O157:H7, Listeria monocytogenes, Vibrio cholerae, and others – is clearly unsafe. The FSSAI microbiological standards set maximum permissible limits for various organisms in different food categories.<sup>45</sup>

## 6.3 Judicial Elaboration of Unsafe Food: Key Cases

### **1. Nestlé India Ltd. v. Food Safety & Standards Authority of India (Maggi Noodles, 2015)<sup>46</sup>**

The Bombay High Court heard a challenge to FSSAI's pan-India recall and ban order on several Maggi noodles variants after government laboratories reported lead beyond permissible limits and the presence of MSG contrary to the 'No Added MSG' label declaration.

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<sup>43</sup>Food Safety and Standards Act, No. 34 of 2006, §§ 3(a), 3(j) (India).

<sup>44</sup>Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 (India) (prescribing maximum permissible limits for additives, preservatives, artificial colours, sweeteners, and flavouring agents).

<sup>45</sup>Food Safety and Standards (Contaminants, Toxins and Residues) Regulations, 2011, Sch. I (India) (setting maximum permissible limits for pathogenic microorganisms including Salmonella, E. coli O157:H7, Listeria monocytogenes, and Vibrio cholerae across food categories).

<sup>46</sup>Nestlé India Ltd. v. Food Safety & Standards Auth. of India, 2015 SCC OnLine Bom 4713 (Bombay High Court) (setting aside the pan-India recall/ban order for violation of natural justice while accepting FSSAI's authority to act on unsafe food under § 3(zz) of the FSSA, and criticising reliance on non-NABL-accredited laboratories).

FSSAI had invoked its powers under the FSSA to direct withdrawal and destruction of stocks nationwide, leading to the destruction of around 38,000 tonnes of Maggi. The Court set aside the recall/ban primarily on the ground of violation of natural justice, holding that Nestlé had not been given a proper show-cause notice and opportunity of hearing before such drastic action. It also criticised reliance on reports from laboratories that were not NABL-accredited or specifically recognised for lead testing, underscoring the need for reliable, standardised testing under the FSSA framework. At the same time, the Court accepted that food containing lead above notified limits falls within 'unsafe food' under Section 3(zz) of the FSSA<sup>47</sup> and can validly attract regulatory action. The judgment clarified that while FSSAI has wide powers to protect public health, recall and ban orders must follow due process, including notice, hearing, and scientifically sound evidence. This case prompted reforms in FSSAI's recall procedures and highlighted systemic weaknesses in India's food testing infrastructure.

## 2. Municipal Corporation of Delhi v. Kacheroo Mal<sup>48</sup>

In this case under the Prevention of Food Adulteration Act,<sup>49</sup> samples of food sold by the respondent were found to be insect-infested, and the issue was whether such contamination made the article 'adulterated' even without proof that it was actually unfit for human consumption. The Supreme Court held that where no specific standard is prescribed, food that is filthy, putrid, disgusting, decomposed, or insect-infested beyond a trivial de minimis level will be deemed unfit for human consumption and hence adulterated under Section 2(i)(f) of the PFA.<sup>50</sup> The Court rejected the argument that prosecution must further prove actual unfitness; the statutory concept of adulteration is objective and turns on the condition and composition of the food, not on additional medical evidence. It also emphasised that socio-economic and public-health offences like food adulteration do not require proof of mens rea, and lack of intent or knowledge is no defence once adulteration is established. This judgment crystallised the objective test for adulteration. The principle has been carried forward under the FSSA, where definitions of 'unsafe' and 'sub-standard' food similarly focus on composition and risk rather than subjective intent.

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<sup>48</sup>Municipal Corp. of Delhi v. Kacheroo Mal, AIR 1976 SC 394 (Supreme Court of India) (establishing the objective test for adulteration under § 2(i)(f) PFA and holding that food-safety offences do not require proof of mens rea).

### 3. Ram Nath v. State of Uttar Pradesh (2024)<sup>51</sup>

The Supreme Court held that after the Food Safety and Standards Act, 2006 came into force on July 29, 2010, prosecutions for food adulteration must be maintained exclusively under the FSSA and cannot be simultaneously pursued under Sections 272 and 273 of the Indian Penal Code.<sup>52</sup> Section 89 of the FSSA<sup>53</sup> employs a broad non obstante clause that overrides any inconsistent statute, not merely food-related laws. The Court reasoned that the FSSA contains exhaustive substantive and procedural provisions including Special Courts, limitation periods, evidentiary rules, and statutory defences demonstrating legislative intent to create a self-contained code. The offence under Section 59 of the FSSA is more stringent than IPC provisions as it does not require intention and provides punishment ranging from three months to life imprisonment with fines up to Rs. 10 lakhs far exceeding the IPC's maximum of six months and Rs. 1,000 fine. This principle establishes the supremacy of specialised food safety legislation over general criminal law, preventing forum shopping and ensuring uniform application of food safety standards.

### 4. Unmesh V. v. St. Marys Catering (2023)<sup>54</sup>

The Commission held that an affidavit by the consumer stating food was rotten, stale, or of inferior quality suffices to discharge the initial burden of proof in food safety complaints. Beneficiaries of catering services qualify as consumers under Section 2(d)(ii) of the Consumer Protection Act, 1986,<sup>55</sup> even when services are engaged on behalf of another person. The Commission established an adverse inference principle: the conscious failure of opposite parties to file written versions despite receiving notice amounts to admission of allegations. Medical evidence linking foodborne illness to contaminated food, when unchallenged, suffices to establish causation and liability. The judgment awarded Rs. 30,000 as compensation for mental agony, physical hardships, loss of work, and inconvenience, recognising that consumer compensation extends beyond pecuniary losses to encompass suffering and life disruption.

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<sup>51</sup>Ram Nath v. State of Uttar Pradesh, 2024 INSC 138 (Supreme Court of India) (holding that the FSSA's non obstante clause under § 89 ousts simultaneous prosecution under §§ 272–273 IPC and that the FSSA constitutes a self-contained code).

<sup>52</sup>Indian Penal Code, No. 45 of 1860, §§ 272–273 (India) (prescribing a maximum of six months' imprisonment and a fine of Rs. 1,000 for food adulteration offences, far less stringent than § 59 FSSA).

<sup>54</sup>Unmesh V. v. St. Marys Catering, CC/19/318 (District Consumer Disputes Redressal Comm'n, Nov. 30, 2023)

### 5. Anand Unnikrishnan v. Managing Director, Pentalon Retail India Ltd. (2014)<sup>56</sup>

The Forum held that consumer commissions possess jurisdiction to issue prohibitory orders against food retailers to prevent sale of unsafe and substandard food items that adversely affect public health. Compensation under the Consumer Protection Act encompasses actual loss, expected loss, and physical, mental, or emotional suffering, enabling commissions to determine compensation for any loss or damage suffered. Significantly, the judgment imposed liability on food safety officers and statutory authorities for deficient inspection and enforcement, reasoning that indirect privity exists through enrichment of the State from taxes collected. The Forum held that failure of food safety officers to act diligently when complaints are made constitutes compensable deficiency in service, awarding Rs. 5,000 against the Food Safety Authority for their inaction in addressing repeated complaints about contaminated food.

### 6. *Suo Motu Re: Public Health – Food Adulteration (2024)*<sup>57</sup>

The High Court held that under Article 21 of the Constitution,<sup>58</sup> the Fundamental Right to Life includes safe and healthy life, protecting people against hazardous and injurious food articles. Under Article 47,<sup>59</sup> it is the duty of the welfare State to ensure such rights are protected. Taking judicial notice of systemic enforcement failures, the Court identified loopholes including lack of food testing labs, understaffed and underfunded authorities, and ignored unorganised sectors. The Court issued comprehensive interim directions mandating: identification of high-risk areas and times for adulteration; establishment of well-equipped testing infrastructures; periodic snapshot tests at State, District, Urban and Rural levels; constitution of State and District level monitoring committees; creation of complaint mechanism websites; and effective implementation of awareness campaigns through SMS, FM Radio, Television, and social media. This principle establishes that constitutional courts possess inherent powers under Article 21 to issue systemic reform directives to remedy widespread failures in food safety enforcement.

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<sup>56</sup>Anand Unnikrishnan v. Managing Director, Pentalon Retail India Ltd., CC No. 2014 (Consumer Disputes Redressal Forum, 2014) (holding that consumer commissions may issue prohibitory orders against food retailers and imposing liability on food safety officers for deficient inspection; awarding Rs. 5,000 against the Food Safety Authority for inaction).

<sup>57</sup>*Suo Motu Re: Public Health—Food Adulteration, 2024 SCC OnLine Raj 1752* (Rajasthan High Court) (issuing systemic reform directions under India Const. art. 21 and 47 including mandating testing infrastructure, monitoring committees, and public awareness campaigns).

## 7. Hyderabad Beverages Private Limited v. State of A.P. (2006)<sup>60</sup>

The High Court held that delay in furnishing the analyst report beyond the product's Best Before date or shelf life does not automatically result in prejudice to the accused unless they actually applied under Section 13(2) of the Prevention of Food Adulteration Act<sup>61</sup> to have the sample sent to the Central Food Laboratory. The accused's right to second analysis is valuable but arises only upon making a formal application to the Court. Whether a sample is fit for analysis is a matter for the Central Laboratory to certify upon actual testing, not for the Court to presume based on delay alone. The expiry of the Best Before date does not legally render the sample unfit for analysis or automatically adulterated. Rules prescribing time limits are directory, not mandatory – mere violation does not vitiate prosecution absent demonstrated prejudice. Inherent jurisdiction under Section 482 Cr.P.C. to quash prosecutions must be exercised sparingly as it is not a substitute for trial or mechanism to decide factual issues.

## 8. AHAR, Indian Hotel and Restaurant Association v. Union of India (2015)<sup>62</sup>

The High Court upheld the constitutional validity of the Food Safety and Standards Act, 2006,<sup>63</sup> holding it is comprehensive legislation enacted in the interest of public health to ensure safe and wholesome food, consistent with constitutional mandates under Articles 21 and 47.<sup>64,65</sup> Terms challenged as vague must be understood in context of the entire Act and detailed regulations which provide clarity and procedural safeguards. Food safety is a fundamental right under Article 21, imposing a duty on the State to ensure safe food through interpretation of laws that achieve appropriate protection for human life and health. Powers conferred on Designated Officers and Food Safety Officers are necessary for effective enforcement and are subject to procedural safeguards including opportunities to be heard and appeal mechanisms. Constitutional challenges to food safety laws must be based on concrete facts and evidence demonstrating unreasonableness or discrimination, not abstract arguments.

## 7. Emerging Challenges: Digital Food Economy and Online Aggregators

### 7.1 The Rise of Online Food Delivery

The digital transformation of India's food economy has created a class of regulatory challenges that the FSSAI Act, enacted in 2006, did not anticipate. Online food aggregators Swiggy, Zomato, and to a lesser extent EatSure and Dunzo – have transformed how food is

<sup>60</sup>Hyderabad Beverages Pvt. Ltd. v. State of Andhra Pradesh, 2006 Cri LJ 3988 (Andhra Pradesh High Court, Apr. 18, 2006).

<sup>62</sup>AHAR, Indian Hotel & Rest. Ass'n v. Union of India, WP No. 115 of 2014 (Bombay High Court, 2015) (

ordered and delivered in urban India. As of 2023, India's online food delivery market was estimated at USD 8.35 billion, with projections suggesting growth to USD 17.02 billion by 2028.<sup>66</sup> The aggregator model creates complex supply chains involving home kitchens, cloud kitchens, and registered restaurants many operating with varying levels of regulatory compliance.

## 7.2 Ghost Kitchens and Regulatory Grey Zones

Ghost kitchens food production facilities that operate exclusively for delivery without a dine-in component represent a particularly challenging area of food regulation. Many ghost kitchens operate from residential premises or informal establishments with minimal infrastructure compliance. FSSAI's 2020 guidelines on Cloud Kitchens attempted to bring these establishments within the regulatory framework, mandating FSSAI licensing, hygiene compliance, and labelling for all cloud kitchen operators.<sup>67</sup> However, enforcement of these guidelines at scale remains incomplete, and the responsibility of aggregators in verifying the regulatory compliance of their partner kitchens remains legally ambiguous.

## 7.3 Aggregator Liability: The Legal Question

The question of whether food aggregators bear legal liability for unsafe food products delivered through their platforms is one of the most contested issues in contemporary Indian food law. Under the FSSAI Act as amended, aggregators are classified as 'Food Business Operators' (FBOs) and are required to display FSSAI licences and food safety information on their platforms.<sup>68</sup> However, the extent of their liability for sub-standard or unsafe food supplied by restaurant partners remains legally unsettled. The Information Technology Act, 2000 (particularly the 'safe harbour' provision under Section 79)<sup>69</sup> complicates this analysis, as aggregators frequently characterise themselves as mere intermediaries. The Consumer Protection (E-Commerce) Rules, 2020,<sup>70</sup> introduced under CPA 2019, impose disclosure and grievance redressal obligations on e-commerce entities, but do not resolve the fundamental question of product liability for food ordered through digital platforms.

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<sup>66</sup>Mordor Intelligence, India Online Food Delivery Market Growth, Trends, COVID-19 Impact, and Forecasts (2023–2028) (2023).

<sup>67</sup>Food Safety & Standards Auth. of India, Cloud Kitchen Guidelines, 2020 (Ministry of Health & Family Welfare, 2020).

<sup>69</sup>Information Technology Act, No. 21 of 2000, § 79 (India). (providing intermediary immunity subject to due-diligence conditions).

<sup>70</sup>Consumer Protection (E-Commerce) Rules, 2020, Rule 4 (India).

#### **7.4 FSSAI's Digital Compliance Initiative**

FSSAI launched the 'Clean Street Food Hub' and the 'Hygiene Rating Scheme' for restaurants including those on aggregator platforms. In 2021, FSSAI directed major food aggregators to display hygiene ratings on their platforms.<sup>71</sup> However, adoption has been slow, and consumer awareness of these ratings remains limited. The 'FSSAI Food Safety Connect' mobile application attempts to bridge the information gap for consumers, but the technological literacy prerequisites limit its reach among India's diverse and economically stratified food consumer population.

### **8. Recommendations**

Based on the foregoing analysis, the following legislative, institutional, and policy recommendations are advanced.

#### **8.1 Legislative Amendments to the FSSAI Act**

First, mandatory aggregator liability provisions should be introduced: Section 3 of the FSSAI Act should be amended to explicitly classify online food aggregators as co-responsible Food Business Operators and impose joint and several liability for unsafe food supplied through their platforms, mirroring the liability of food service providers under Section 84 of CPA 2019.<sup>72</sup>

Second, a dedicated food recall authority should be established. The FSSAI Act should be amended to create a statutory Food Recall Committee with clear timelines, testing protocols, and consumer notification obligations, addressing the procedural vacuum exposed by the Maggi controversy.<sup>73</sup>

Third, whistleblower protection provisions should be introduced a dedicated provision protecting food industry employees who report food safety violations, analogous to whistleblower provisions in securities law, should be enacted to incentivise internal reporting.

#### **8.2 Institutional Reforms**

The central government should, through a centrally sponsored scheme, assist states in filling FSO vacancies and expanding the cadre to at least one FSO per 300 registered food

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<sup>71</sup>Food Safety & Standards Auth. of India, Direction to Food Aggregators to Display Hygiene Ratings (2021), available at <https://www.fssai.gov.in> (last visited Mar. 2026).

<sup>72</sup>R. Lal, FSSAI and the Regulation of Food Safety in India: Gaps and Way Forward, 31(2) J. Consumer Pol'y 155, 160 (2019).

businesses within five years, addressing the structural understaffing documented above.<sup>7475</sup>

A dedicated capital expenditure programme for upgrading state food testing laboratories, adopting automated testing equipment, and expanding NABL accreditation to at least 500 testing laboratories nationally should be launched, remedying the laboratory infrastructure gaps identified by the Parliamentary Standing Committee.

A formal coordination mechanism between FSSAI and the CCPA an FSSAI-CCPA Coordination Council should be institutionalised to avoid regulatory duplication and ensure coherent consumer-facing communication on food safety issues.

### 8.3 Consumer Empowerment

FSSAI should mandate QR code-based labelling on all packaged foods within two years, enabling consumers to access full ingredient, nutritional, and supply chain traceability information via mobile devices, building on the existing Labelling and Display Regulations.<sup>76</sup>

The FSSAI's consumer complaint mechanism should be integrated with the Integrated Grievance Address and Allocation System (INGRAM) portal of the Department of Consumer Affairs to create a single-window complaint interface, consistent with the grievance redressal framework under the Consumer Protection Act, 2019.<sup>77</sup>

## 9. Conclusion

India's journey from the Prevention of Food Adulteration Act, 1954<sup>78</sup> to the Food Safety and Standards Act, 2006<sup>79</sup> and the Consumer Protection Act, 2019<sup>80</sup> represents substantial legislative progress. The FSSAI framework, in particular, embodies an aspirationally comprehensive approach to food safety encompassing standards, licensing, enforcement, and consumer information. The Consumer Protection Act, 2019 adds a vital layer of civil redress for food consumers, with its product liability provisions marking a significant doctrinal advance.<sup>81</sup>

And yet, as this paper has demonstrated, the chasm between legislative intent and enforcement reality remains wide and consequential. Understaffed field agencies,<sup>82</sup> fragmented laboratory infrastructure,<sup>83</sup> regulatory gaps in the digital food economy,<sup>84</sup> and the absence of robust inter-agency coordination<sup>85</sup> collectively undermine the effectiveness of an otherwise

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<sup>78</sup>Prevention of Food Adulteration Act, No. 37 of 1954, § 2 (India).

<sup>80</sup>Consumer Protection Act, No. 35 of 2019 (India).

well-designed regulatory architecture. The judicial record from the constitutional courts to consumer commissions reflects both the activism of India's judiciary in filling regulatory gaps and the volume and persistence of food safety violations that reach the adjudicatory stage.

The Maggi noodles controversy of 2015,<sup>86</sup> the recurring surveys documenting milk adulteration,<sup>87</sup> and the regulatory challenges posed by cloud kitchens<sup>88</sup> are not isolated episodes they are symptomatic of structural deficiencies that cannot be addressed through incremental adjustments. What is required is a fundamental reimagination of food safety governance: one that is adequately resourced, preventive in orientation, technologically equipped, and genuinely accountable to the food consumer.

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