



# Food Adulteration and Law

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**Abstract :** Food adulteration is a global public health issue causing numerous health problems such as nutrition deficiency diseases, kidney disorder, and life-threatening conditions like cancer. Food adulteration affects various consumables, including vegetables, fruits, milk products, cereals, pulses, and agricultural products, leading to severe health issues and diseases. Under Article 21 of the constitution of India, the Fundamental Right to life includes safe and healthy life. People are protected under Article 21 of the Constitution of India against the hazardous and injurious food articles and under Article 47 of the Constitution of India, it is the duty of the welfare state to ensure such rights the citizens are protected.

**Index Terms:** Food, Adulteration, Constitution

## I. INTRODUCTION

Food is one of the basic needs for every living being and is very important aspect for life. But now a day's foods are affected by different adulterants which are harmful to human health. Adulteration in food is the most important concern, as it not only decreases the quality of food products but also results in a number of ill effects on health<sup>1</sup>. In *Centre For public Interest Litigation Vs Union of India and Ors*<sup>2</sup>, the Apex court held that "An enjoyment of life and its attainment, including right to life and human dignity encompasses, within its ambit availability of articles of food, without insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, etc. But the fact remains, many of the food articles like rice, vegetables, meat, fish, milk, fruits available in the market contain insecticides or pesticides residues, beyond the tolerable limits, causing serious health hazards". The Apex court further emphasize that any food article which is hazardous or injurious to public health is a potential danger to the fundamental right to life guaranteed under Article 21 of the Constitution of India. A paramount duty is cast on the states and its authorities to achieve an appropriate level of protection to human life and health which is a fundamental right guaranteed to the citizens under Article 21 read with Article 47 of the Constitution of India<sup>3</sup>. The Food Safety and Standards Act, 2006 was passed by the parliament with the objective of integrating all present food laws into one<sup>4</sup>. The Food Act which came into effect in 2011, subsumes various Central Acts like the prevention of Food Adulteration Act, 1954; the Fruit Products Order, 1955; the Meat Food Products Order, 1973; the Vegetable Oil Products (Control) Order, 1947; the Edible Oils Packaging (Regulation) Order, 1998; the Solvent Extracted Oil, De-Oiled meal and Edible Flour (Control) Order, 1967; the milk and Milk products order, 1992 and also any order issued under the Essential Commodities Act, 1955 relating to food<sup>5</sup>.

Food adulteration is an increasingly recognized global public health problem. Having adulterated food is highly toxic and the same leads to several health issues including certain nutrition deficiency diseases, kidney disorder and failure of an individual's organs including heart, kidney, liver etc<sup>6</sup>. Adulteration or contamination of natural food product is one of the major challenges in today's society. According to the records of Health and Family Welfare Ministry, more than 20 % of our food is either adulterated or substandard. According to a survey, Conducted by the Food Safety and Standard Authority of India (for short "The FSSAI") relating to adulteration of milk, nearly 70% of the milk, adulterated with water, being the most common adulterant. The surprising result of the survey was that even detergent was found to be one of the adulterants which is major health hazard<sup>7</sup>. According to the data released by the National Crime Records Bureau (NCRB), Hyderabad has ranked first in the country for food adulteration cases; Telangana stands second, closely followed by Andhra Pradesh<sup>8</sup>. In 2022 a total of 291 cases of food adulteration were reported across 19 major cities in India. The NCRB data said that a total of 14, 745 offences relating to adulteration or sale of food/drugs were reported in Andhra Pradesh between 2018 and 2022.

## II. METHODS OF FOOD ADULTERATION

"Adulteration" means the infusion of some foreign substance<sup>9</sup>. Food adulteration can be defined as lowering the quality of food by intentional or unintentional substitution of food with some inferior foreign particle or by removal of some value added food substitute from main food item<sup>10</sup>. Following are some of the most common methods adopted to add adulterants in the food products<sup>11</sup>:-

- (A) Adding certain chemicals for faster ripening of fruits and vegetables.
- (B) Mixing of decomposed fruits and vegetables with the good ones.
- (C) Adding certain natural and chemical dyes to attract consumers.

- (D) Mixing of crushed and powdered clay, pebbles, stones and marbles chips to the grains, pulses and other products.
- (E) Cheaper and inferior substances are added wholly or partially with good ones to increase the weight or nature of the product.
- (F) Pesticides which are harmful for health are commonly used to increase the faster growth of the crops, fruits and vegetables.
- (G) Metallic Materials like Lead or Mercury are added to increase the flavour of the food.
- (H) Harmful substances like unauthorized colourings, dyes and dangerous preservatives are added into food items to increase profit and sales.
- (I) Certain products are sold with false information about their expiration date, manufacturing date or ingredients. This misinformation can be dangerous to customer, who rely on accurate labeling.

There are numerous examples where food adulteration takes several forms and each one of them pose great risk to our health and overall well being of every living beings.

### III. CAUSES OF FOOD ADULTERATION

Contamination or adulteration in food is added for various reasons which include financial gain, carelessness and lack in proper hygienic condition of processing, storing, transportation and selling. The traders use it for their economic benefit without thinking about its effect on the common population of our country, which consumes it. Therefore, the consumer is either fooled or usually become victim of diseases<sup>12</sup>. According to the National Health Services and Food Research Institute, several food products have been adulterated to increase the quantity and make more profit. This practice of adding adulterants to food products are quite common and has been an age old problem throughout the country. By adding cheap and inferior substances to food products, unscrupulous traders increase their volume and sell more at a lower production cost<sup>13</sup>.

### IV. ADULTERATION IN FOOD STUFF AND ITS HARMFUL EFFECTS

Adulteration and misbranding of food stuffs are rampant evils in our country<sup>14</sup>. Food adulteration can lead to slow poisoning and various kinds of diseases, which can even result in death. Adulteration makes the food items used in our daily life unsafe and unhygienic for use<sup>15</sup>.

**Table-1 : Adulteration In Food Stuff And Its Harmful Effects**

FOOD ARTICLE	ADULTERANT	HARMFUL EFFECTS
Bengal Gram Dal & Toor Dal	Khesari dal	Lathyrism cancer
Tea	Used tea leaves processed and coloured	Liver Disorder
Coffee Powder	Tamarind seed, date seed powder	Diarrhea
Coffee Powder	Chicory powder	Stomach disorder, Giddiness and joint pain
Milk	Unhygienic water & Starch	Stomach disorder
Khoa	Starch & Less Fat content	Less - nutritive value
Wheat and other food grains (Bajra)	Ergot (a fungus containing poisonous substance)	Poisonous
Sugar	Chalk powder	Stomach - Disorder
Black powder	Papaya Seeds and light berries	Stomach, liver problems
Mustard powder	Argemone seeds	Epidemic dropsy & Glucoma
Edible oils	Argemone oil	Loss of eyesight, heart diseases, tumour
Edible oils	Mineral oil	Damage to liver,carcinogenic effects
Edible oils	Karanja oil	Heart problems, liver damage
Edible oils	Castor oil	Stomach problem

FOOD ARTICLE	ADULTERANT	HARMFUL EFFECTS
Asafoetida	Foreign resins galbanum, colophony resin	dysentery
Turmeric powder	Yellow aniline dyes	Carcinogenic
Turmeric powder	Non-permitted colourants like metanil yellow	Highly Carcinogenic
Turmeric powder	Tapioca starch	Stomach disorder
Chilli powder	Brick powder, saw dust	Stomach problems
Chilli powder	Artificial Colours	Cancer
Sweets, Juices, Jam	Non-permitted coal tar dye, (Metanil Yellow)	Metanil yellow is toxic and carcinogenic
Jaggery	Washing soda, chalk powder	vomiting, diarrhoea
Pulses (Green peas and dhal)	coal tar dye	stomach pain, ulcer
Suapari	colour and saccharin	cancer
Honey	Molasses sugar (sugar plus water)	Stomach disorder
Carbonator water beverages	Aluminium leaves	Stomach Disorder
Cloves	Cloves from which volatile oil has been extracted	cheating waste of money

Source-<http://www.chennaicorporation.gov.in/departments/health/adulteration.htm>

## V. CONSTITUTIONAL PROVISIONS

In *Anun Dhawan Vs Union of India*<sup>16</sup> the Apex court held that, "Though the constitution of India does not explicitly provide for Right to food, the fundamental Right to life enshrined in Article 21 of the constitution does include Right to live with human dignity and right to food and other basic necessities. The Article 47 of the constitution also provides that the state shall regard the raising of level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties".

**Article 21** Provides that-

No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Article 47:** Duty of the state to raise the level of nutrition and the standard of living and to improve public health - The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the state shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health".

## VI. THE RIGHT TO FOOD IN INTERNATIONAL LAW

The right to food is a human right recognized by international human rights law<sup>17</sup>.

## VII. UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

Article 25(1) provides that-

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

## VIII. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

Article 11 Provides that-

(1) The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

(2) The states parties to the present covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed.

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.

## IX. CODEX ALIMENTARIUS COMMISSION

The codex Alimentarius Commission is established by the Food and Agriculture Organization (FAO) of the United Nations and WHO, wherein India is a member state. The codex Alimentarius provides international food standards, guidelines and codes of practice contribute to the safety, quality and fairness of this international food trade. The codex Alimentarius provides standards for various food products. India, being a member state, these standards are to be followed if there are no specific standards in FSS Act, of India. Therefore, in the absence of any specific standards in FSS Act, the Food safety and Standards Authority of India are bound to follow the standards of the codex Alimentarius, if any, for determining the standards<sup>18</sup>.

## X. THE FOOD SAFETY AND STANDARDS ACT, 2006

The Government of India has enacted Food Safety and standards Act 2006 (FSSACT) to regulate and monitor the manufacturing, processing, packing, storage, transport, distribution, sale of any food or food ingredient, so as to ensure availability of safe and wholesome food for human consumption<sup>19</sup>.

Some of the objectives of the Food Safety and Standards Act 2006 are as follows<sup>20</sup>:-

- i) To consolidate the laws relating to Food
- ii) To establish Food Safety and Standards Authority of India for laying down science based standards for articles of food.
- iii) To regulate their manufacture, storage, distribution, sale and import.
- iv) To ensure availability of safe and wholesome food for human consumption.

The Act, apart from making more stringent provisions (e.g. prescribing higher penalties etc.) to curb food adulteration, also ushers in new concepts such as putting in place Food safety management systems and food safety Audit to realize its ultimate goal of ensuring availability of safe and wholesome Food for human consumption. In order to ensure food safety, effective food safety systems implementation and to ensure that food producers and suppliers operate responsibly and supply safe food to consumers, the Act further stipulates:-

- (i) Licensing for manufacture of food products, which is presently granted by the central agencies under various Acts and orders, would stand decentralized to the commissioner of Food Safety and his officer.
- (ii) Single reference point for all matters relating to Food Safety and Standards, regulations and enforcement.
- (iii) Shift from mere regulatory regime to self compliance through Food Safety management systems.
- (iv) Responsibility on Food Business Operators to ensure that Food Processed, manufactured, imported or distributed is in compliance with the domestic food laws<sup>21</sup>.

## XI. OFFENCES AND PENALTIES

The Offences and Penalties are provided in Chapter IX of the Food Safety and Standards Act 2006. Section 59 of the Act provides for punishment for unsafe food.

**Section 59:** provides that-

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable-

- (i) Where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;
- (ii) Where such failure or contravention results in a non- grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;
- (iii) Where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;
- (iv) Where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

## XII. FOOD ADULTERATION UNDER THE BHARATIYA NYAYA SANHITA 2023<sup>22</sup>

**Section 274:** Adulteration of food or drink intended for sale - whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold

as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

**Section 275:** Sale of noxious food or drink - whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

### **XIII. GUIDELINES LAID DOWN BY THE HON'BLE SUPREME COURT IN SWAMI ACHYUTANAND TIRTH<sup>23</sup>**

The principles laid down by the Hon'ble Supreme Court are given hereunder:-

- (i) Union of India and the state Governments shall take appropriate steps to implement Food Safety and Standard Act, 2006 in a more effective manner.
- (ii) States shall take appropriate steps to inform owners of dairy, dairy operators and retailers working in the state that if chemical adulterants like pesticides, caustic soda and other chemicals are found in the milk, then stringent action will be taken on the State Dairy Operators or retailers or all the persons involved in the same.
- (iii) State Food Safety Authority should also identify high risk areas (where there is greater presence of petty food manufacturer/ business operator etc.) and times (near festivals etc.) when there is risk of ingesting adulterated milk or milk products due to environmental and other factors and greater number of food samples should be taken from those areas.
- (iv) State Food Safety Authorities should also ensure that there is adequate lab testing infrastructure and ensure that all labs have/ obtain NABL accreditation to facilitate precise testing. State Government to ensure that state food testing laboratories/ district food laboratories are well- equipped with the technical persons and testing facilities.
- (v) Special measures should be undertaken by the State Food Safety Authorities (SFSA) and District Authorities for sampling of milk and milk products, including spot testing through Mobile Food Testing Vans equipped with primary testing Kits for conducting qualitative test of adulteration in food.
- (vi) Since the snap short survey conducted in 2011 revealed adulteration of milk by hazardous substances including chemicals, such snap short surveys to be conducted periodically both in the state as well as at the national level by FSSAI.
- (vii) For curbing milk adulteration, an appropriate State Level Committee headed by the Chief Secretary or the Secretary of Dairy Department and District level Committee headed by the concerned District Collector shall be constituted as is done in the state of Maharashtra to take the review of the work done to curb the milk adulteration in the district and in the state by the authorities.
- (viii) To prevent adulteration of milk, the concerned State Department shall set up a website thereby specifying the functioning and responsibilities of food safety authorities and also creating awareness about complaint mechanisms. In the website, the contact details of the Joint Commissioners including the Food Safety Commissioners shall be made available for registering the complaints on the said website. All states should also have and maintain toll free telephonic and online complaint mechanism.
- (ix) In order to increase consumer awareness about ill effects of milk adulteration as stipulated in section 18 (I) (f) the States/Food Authority/ Commissioner of Food Safety shall inform the general public of the nature of risk to health and create awareness of Food Safety and Standards. They should also educate school children by conducting workshops and teaching them easy methods for detection of common adulterants in food, keeping in mind indigenous technological innovations ( such as milk adulteration detection strips etc.).
- (x) Union of India/ State Governments to evolve a complaint mechanism for checking corruption and other unethical practices of the Food Authorities and their officers.

### **XIV. GUIDELINES LAY DOWN BY THE RAJASTHAN HIGH COURT IN SUO MOTO IN RE-PUBLIC HEALTH-PROTECT<sup>24</sup>**

The guidelines includes-

- a) Central and the State government should take appropriate steps to implement the Act of 2006 in a more effective way.
- b) The State Food Safety Authority (for short 'the SFSA') is directed to identify high risk areas and time so as to ascertain as to where and when there are high chances of adulteration in food articles and accordingly collect the samples from those areas on regular basis.
- c) The SFSA should ensure that there are test labs which are having well equipped testing infrastructures and technical persons to handle them.
- d) Measures should be taken by the SFSA and District Authorities for sampling of products on regular basis.
- e) Snapshot summery test should be conducted periodically at the State, District, Urban and Rural Levels.
- f) State Level committee, headed by the Chief secretary and the Additional & principal Secretary of Health Welfare and Food Department along with District Level Committee, headed by the concerned District Collector shall be constituted to take a review of the work done in curbing the adulteration by the authorities.

- g) The Central Government as well as the state Government and the concerned Departments are directed to set-up a website that will be responsible for creating awareness about complaint mechanism functioning and the responsibilities of the food safety authorities. The website will have the contact details of Food Safety Officers and a toll-free number as well.
- h) Further directions are issued to the Central Government as well the State Government and their Departments to put a check on compliance and unethical practices (if any) used by the Food Authorities and their Officers by evolving the complaint mechanism.
- i) Appropriate steps to be taken by the Government for effective implementation of its scheme” Sudh Ke Liye Yudh “in its letter and spirit.
- j) The State Government/ Food Authority/ Commission of Food are directed to circulate message through SMS, FM Radio, Television, Newspapers, Print, Electronics and Social Media to the general Public about the ill- effect on the health due to adulteration an educate the children through workshops/ Seminars in Schools etc. in determining adulterated components in food.
- k) Let the compliance report regarding sampling being done on regular basis to check the food adulteration be submitted to this Court on the end of every month along with the steps being taken by the concerned authorities.

## XV. CONCLUSION

Food is essential for sustenance of life. Adulteration of food article is rampant in the country and has become a grave menace to the health and well being of the community. It makes a heavy dent in the already low nutritional standards, and the benefits of many public health programmes on which large sum of money are spent and are insidiously undermined. A major offensive against this evil is overdue<sup>25</sup>. Keeping in view the gravity of the problem and the growing danger which it poses to the health of the nation, it has become necessary to amend the Food Safety Standard Act, 2006, so as to plug loopholes and to provide for more stringent and effective measures with view to curb this menace.

The Food Safety and Standards Act of 2006 does not provide solutions to all the problems, as various loopholes exist in the same. The unorganized sectors are ignored in the Act of 2006. It contains petty manufactures, hookers, retailers which contribute a lot to the unorganized sectors. It’s mainly emphasis the processing industry. The primary sector is included in the Act of 2006, but the agricultural sector, producing primary food, is ignored. There are lacks of food testing labs to scrutinize the food manufacturing and processing industries which ensures the hygiene quality, safety in the food. The food authority is understaffed and underfunded and is not able to pace up with the increasing number of food industries. Due to lack of proper technology, at the ground level, the food authorities are not competent to monitor the situation. There are doubts about the standard procedures followed by the various laboratories in different states of the country while scrutinizing the product. The adulteration of food is a subject in the concurrent list of the constitution of India by which both central government and state governments are quite competent to frame and enact penal laws for prevention of food adulteration<sup>26</sup>.

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