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FOOD ADULTERATION IN INDIA: CHALLENGES & ISSUES FACED IN IMPLEMENTATION OF THE ADULTERATION LAWS ON STREET SIDE OUTLETS

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Abstract

Food is the most basic requirement for a human being to sustain life. Food is responsible for providing nutrition, energy to our body, to maintain health, and for overall growth and development. In order to stay healthy, it is required for a person to eat healthy and nutritious food. But in present time it has become much difficult to fulfil all these requirements as since last few years the food quality has been degrading because of many harmful substances being mixed by retailers for maximized retail and profit generation. This mixing of harmful substances in food is termed as 'Food Adulteration'. Food adulteration has now become a topic of major concern as this adulteration not only degrades the quality of food items but also causes adverse effect on health of the population consuming it. The authentic testing of food is essential for determining the worth of food and protecting consumers from fraudulent practices. This research work discusses about the laws related to Food Adulteration in India and various challenges and issues which are faced in implementation of these laws among the local street vendors and roadside outlets.

Keywords: Food, Adulteration, Consumer, Laws, Roadside Outlets/ Vendors, Certification & Standardisation.

I. Introduction

Adulteration is the process of reducing the quality of something or altering its original form by adding materials or elements that are not normally present, particularly those of inferior quality. The most prevalent form of food adulteration is the addition of another substance to a raw or prepared food item in order to increase its supply, which may result in a loss of quality. Food adulteration can be defined as the act of adding or mixing inferior, harmful, low-quality, or superfluous substances, known as adulterants, to food. These adulterants reduce the nutritional value of food and render it unfit for consumption because they contaminate it. These contaminants can be found in all the foods we consume daily. For example, apple purveyors apply a layer of wax

to the apple's exterior in order to increase sales by making the fruit appear shiny and appealing; however, this wax application renders the fruit unhealthy for consumption. Such conduct is known as food adulteration. In modern India, dietary practises have changed drastically. In the past, Indian families cooked home-cooked meals with healthy ingredients and knew exactly what went into each dish. However, in the modern era, more and more people are consuming ready-made, packaged, or restaurant food. Rather than providing a healthy, wholesome meal, the food in these establishments is prepared with low-quality ingredients or is adulterated to appeal to the public. In addition, even the food we consume daily is contaminated. Food adulteration causes numerous health problems in humans, including stomach pain, body pain, anaemia, paralysis, and an increase in the incidence of



tumours, pathological lesions in vital organs, and skin and ocular abnormalities. Various measures have been taken to protect consumers from ingesting adulterated food, as well as to educate consumer associations and individual consumers about food adulteration and the legal protections in place to safeguard their rights. The safeguarding of consumers Right is not merely the responsibility of the government, but also of each individual consumer. Consumers are responsible for their own protection, with the assistance of recognised consumer associations and authorities. As a result, this sector of the economy serves as a breeding ground not just for large food chains but also for independent food vendors. According to the figures kept by the government, there are approximately one hundred fifty thousand street vendors in India. Most of these businesses are not authorised to sell their goods. The high demand for low-cost food produced from a finite supply of resources drives a variety of practises, each of which, in turn, contributes to a decline in the quality of the food that the general population consumes. This, in turn, influences the health of consumers. It has been discovered that this is the fundamental reason why so many people in the population of the country suffer from persistent ailments. As a result of eating food that is not up to par, an increasing number of people are suffering from ailments related to their eyes, hearts, livers, limbs, and other organs.

II. Concept And Meaning of Food Adulteration

Everyone is aware that without food, we cannot survive, and that the food we consume must serve as body construction material. Thus, food quality has a significant impact on the human body and existence. Since most food items today are composed of complex biological materials, assessing their quality is a challenging endeavour. The Prevention of Food Adulteration Act, 1954 defines 'Food' as: "Food means any article used as food or drink for human consumption other than drugs and water and includes: --(a) any article which ordinarily enters into or is used in the

composition or preparation of human food; (b) any flavouring matter or condiments; and (c) any other article which the Central Government may, having regard to its use, nature, substance or quality, declare by notification in the Official Gazette." What is 'food' in one region of the country but not in another? Therefore, the judiciary must exercise extreme caution when interpreting the word. "Food" includes chewing gum, beverages, and other products of the same nature and use, as well as substances used as constituents in the preparation of food or drink or of such products, but excludes: (a) substances or articles used solely as drugs. (b) birds or animals that are alive; water. (c) food items for animals, fowl, and fish.²⁶

The beginning of the evil of adulteration dates to prehistoric times. However, the devices employed by unscrupulous traders to perpetrate the scheme varied on occasion. One of the widely held beliefs regarding adulteration in India is as follows: -

"Adulteration is the act of intentionally debasing the quality of food offered for sale, either by admixture or substitution of inferior substances, or by the removal of some valuable constituents to be used in another form for separate sale." In Black's Law Encyclopaedia A comparable type of definition can be found couched in different terminology. Adulteration is the act of combining something spurious and impure with something genuine or pure, or of combining an inferior item with a superior item of the same category. The history of India reveals that numerous state statutes were in effect prior to independence. Each state defined the concept in accordance with its own conception. For this endeavour, it is necessary to cite a single definition. The Bengal Food Act of 1919 defined adulteration in the following manner:

"A food item shall be deemed to be 'adulterated' if it has been mixed or packaged with any other substance, or if any part of it has been

²⁶ The Prevention of Food Adulteration Act, 1954, § 2(v), No. 37, Acts of Parliament, 1954 (India).



extracted in such a way as to adversely affect its quality, substance, or nature.” To achieve uniformity in combating food adulteration, all State laws were repealed in 1954, and the Parliament of India gave the term ‘adulteration’ a simple and exhaustive definition. A product is considered adulterated for the purposes of the Act if: a) it is not of the nature, quality, or substance demanded by the consumer and is to his detriment; or b) it is not of the nature, quality, or substance it purports to be.

(c) if any cheaper substance has been substituted in part or wholly and the article to affect injuriously the nature, quality, or substance of the article.²⁷

III. Why Do Retailers Do Food Adulteration?

It has been observed for several years that the practise of adding water to milk increases its quantity and generates more profit for less milk volume. In India, adulteration has developed into a booming industry. In order to increase profits more cheaply and to compete with the market, food producers and other sectors now include it in their business strategies. powdered chalk with salt. Contains dried papaya seeds and peppercorns. To make them more colourful, certain vegetables are dyed, some of which are cancerous. Chilli powder and brick powder are combined. The weight of the product is increased by adulteration as a technique to make more money and boost sales more cheaply. sawdust mixed with coriander powder. same coloured tea leaves. tamarind seeds mixed with coffee seeds.

According to the FSSAI’s Annual Public Laboratory Testing Report for 2014–15, 13,679 food samples out of 70,688 total samples were determined to be adulterated or misbranded, or close to one-fifth. The rise in food adulteration is also significantly influenced by the population growth rate. People who are unaware of the dangers of adulterated food frequently do this act. They are unaware of the disease epidemics brought on by contaminated food goods. It is

still extensively practised because of a lack of awareness and correct information.²⁸

If any other component has been partially or completely introduced to the product, changing its nature, substance, or quality. When a food product is made, packed, or stored in an unsanitary manner, rendering it unsafe for human consumption. If the product has any toxic or other ingredients that could be harmful to your health. Adulteration can be classified into several categories depending on the type of contamination, the producer’s goal, and the processing method used. These categories include:

In this case, similar-looking substance is purposefully added to the natural components in order to raise its weight and generate more revenue. Example: mixing dirt, mud, pebbles, stones, marbles, sand, etc. Metallic adulteration is a result of carelessness when handling food, such as handling lead or mercury.

IV. Challenges Faced in Implementation of Food Adulteration Act on The Roadside Food Vendors/Outlets

In India, selling food on the street is a part of the unorganised economy. Foods and drinks that are ready to eat and are sold by sellers on the street or by the side of the road. Street foods are very popular among people of all ages and income levels because they are easy to get, cheap, and tasty. There are many different kinds of vending sites, such as stalls, various push-carts, roadside booths, and hawkers. The type of vending site depends on the person’s creativity, the resources they have access to, the food they sell, and whether or not there are other facilities nearby. Even though there are many benefits to eating street food, there are also many health risks. Food that is sold on the street can sometimes get tainted because of bad cleanliness and sanitation practises. Microorganisms that cause food to go bad or make people sick can get into foods for sale along roads. Because of this, it is important to

²⁷ The Bengal Food Adulteration Act, 1919, § 2(1), No. 6, Acts of West Bengal State Legislature, 1919 (India).

²⁸ The Food Safety and Standards Authority of India, Annual Public Laboratory Testing Report P. 44-45 (2014-15)

use an effective Information, Education, and Communication (IEC) strategy to raise awareness among the stakeholders about the different aspects of hygienic practises, such as how to prepare food, where it is prepared, the environment and location of street food vendors, how to handle and store food, personal hygiene, and how to store leftovers, and, most importantly, the different rules and laws that govern the subject. The high number of small food vendors is due to two factors: first, the large population with low incomes who need to eat, and second, the inexpensive availability of food that requires low or no establishment costs.

This results in adulteration as these vendors:

- Use low-quality basic materials are used to keep costs down.
- Hygiene is not maintained in terms of the environment and food preparation.
- Small vendors use outmoded equipment and techniques and have inadequate knowledge of the industry.
- High demand for sustenance by the population.
- No or limited knowledge of food safety and diseases caused by food adulteration.
- Geographical scope of their operations.

And this continues to rise as there are very few food inspectors to reach out to all the small vendors, few testing facilities, inter-departmental differences in FSSA governance, difficulty in imparting knowledge to these vendors, very low or no literacy among those involved in small food outlets, inability of small food outlets to adhere to the strict guidelines of FSSA, and most small food vendors are illiterate.

A. Sanitary conditions

The quality of the food sold by vendors on the side of the road is compromised not only by the mix of cheaper ingredients, but also by the unsanitary and cruel conditions. When food gets contaminated because of dirty conditions, the effects are clear. India's laws say that

nothing should be made, packed, or stored in a way that could hurt the health of the buyer. This means that no food business can be run in a place that isn't clean or is used in a way that puts food at risk of getting contaminated. The word "insanitary condition" in the clause was looked at by the Supreme Court of India in the S.K. Mehta case. In this case, the Supreme Court looked at a plea and decided that dead bugs are a sign of an unsanitary condition. If the bugs are dead, it's not just a case of an insect invasion, but also of bad hygiene. Justice Sarkaria said this when he made the decision: "It would be a stretch of common sense to say that a piece of food that is full of dead insects and is no longer safe for humans to eat becomes safe when these insects die and the infestation turns into an infection by dead insects." But just because something has worms in it doesn't mean it has insects, since worms are not insects.²⁹

In *Ram Dayal and Others v. Emperor* (1923), the defendant sold ghee that had pig fat in it. The Privy Council decided that putting pig fat in ghee is insulting to Hindus and Mohammedans' religious beliefs, but it is not "noxious as food." Noxious means "unhealthy or harmful to health, but not offensive to the senses."³⁰

B. Chemicals and substances harmful to health

The article will be deemed adulterated if it contains any noxious or harmful to human health ingredients. Likewise, the noxious nature of the packaging material or container will render its contents noxious, and as a result, the contents will be considered adulterated.

Nestle India Limited v. The Food Safety and Standards Authority of India (2015) (the Maggi Case). In this case, the petitioner-company was ordered to suspend production, distribution, etc. of nine variants of its own noodle products. The court ruled that natural justice had not been observed. A day prior to the contested order, the company recalled all products until the

²⁹ S.K. Mehta v. Union of India, (1988) 4 SCC 466.

³⁰ *Ram Dayal And Ors V King Emperor*, AIR 1924 AP 2141.

authorities were satisfied with the safety of the product. In addition, it was determined that the laboratories that tested the products for elevated levels of lead were not accredited and recognised under the Act, so it would be inappropriate to rely on their test results.³¹

C. Colours and preservatives

Rule 23 to 310 of the Prevention of Food Adulteration Act of 1954 addresses the addition of various colouring agents to food products. The addition of any colouring agent other than those specifically mentioned in the Rules is considered adulteration.³² In *Centre for Public Interest Litigation v. Union of India (2013)* alleged that soft drinks had been adulterated. The Supreme Court ruled that people are protected against hazardous and harmful food items under Article 21, and it is the state's responsibility under Article 47 to ensure that these rights are respected. It was determined that the food item contained an excessive amount of insecticides and pesticides, which is detrimental to the health of children. Therefore, the court ordered the state authorities to effectively implement the statutory scheme and penal provisions, and the food authority to conduct periodic surveillance of fruit and vegetable markets, taking into account prevalent national and international standards and practises. If a statutory requirement is specified for an item, the item must comply with that requirement. The Act considers even minor deviations from the prescribed standards to be serious. However, when the statute itself does not specify a standard for a food item, a conviction cannot be imposed unless the item is unfit for human consumption.³³

In the 2016 case of public interest *Swami Achyutanand Tirth & Ors v. Union of India & Ors*, the petitioner raised concerns about the increasing sale of adulterated and synthetic milk throughout India. Consequently, a lawsuit was filed in the public interest to compel the

state and federal government to take the necessary steps to stop the activity. The court therefore issued the following orders:

- The federal and state administrations should more effectively implement the FSSA by taking the necessary steps.
- Inform dairy owners and retailers that severe action will be taken if any chemical adulterant is found in milk.
- The State Food Safety Authority (SFSA) should identify high-risk areas and times when milk and milk products are likely to be consumed frequently, and then collect samples from these locations.
- State Food Safety Authorities must ensure that all labs are accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL) and have a well-equipped laboratory testing infrastructure and technical staff to administer it.
- The SFSA and district authorities should take measures to evaluate products and conduct qualitative food adulteration tests, including spot testing.
- Surveys should be conducted periodically at the state and national levels.
- A State Level Committee chaired by the Chief Secretary or the Secretary of the Dairy Department and a District Level Committee chaired by the concerned District Collector shall be established to conduct a review of the authorities' efforts to combat adulteration.
- The relevant state agency shall establish a website tasked with educating the public on the operation of the complaint mechanism and the responsibilities of food safety authorities. On the website, there will be a toll-free number and contact information for food safety officers.
- Instructing the relevant government to combat corruption and unethical behaviour by Food Authorities and their officers by instituting a complaints system; State/food authority/Commissioner of food safety shall inform the public about the negative health

³¹ Nestle India Limited v. The Food Safety and Standards Authority of India, 2015 SCC ONLINE BOM 8526.

³² The Prevention of Food Adulteration Act, 1954, Rule 23.

³³ Centre for Public Interest Litigation v. Union of India, (2012) 3 SCC.



effects of food adulteration and educate children through workshops, etc. on how to identify adulterated food components. In essence, it is their responsibility to educate the public.³⁴

V. Conclusion

Adulteration can be avoided if our society takes a few precautionary measures. The government must monitor the price increase of food items. Selecting non-adulterated and nutritious foods when purchasing food items is necessary to ensure that these foods do not cause any health issues. Even though the presence of adulterants cannot be verified and guaranteed by visual inspection due to the extremely low levels of toxic contaminants, a visual inspection prior to purchase can confirm the absence of fungi, insects, and other foreign substances. The purchaser must avoid purchasing food from establishments with unsanitary conditions. Consumers with greater knowledge and a more optimistic outlook adhered to good food safety practises. Therefore, it is necessary to educate consumers about food safety in order to ensure that they adhere to food safety best practises. It is necessary to take steps to enhance the safety of street food. Keeping in mind the popularity of street food, the government and non-governmental organisations must contribute to food safety, as secure street food can contribute to the health of the masses and the sustainability of the street food vending microenterprise. Multiple government agencies must inspect both local and branded food stores, and the Food Adulteration Prevention Act of 1954 must be implemented correctly. The above general consciousness is simple and straightforward to implement for a healthy lifestyle. If we tend to actively participate in these changes, we can provide future generations with a healthy existence and a secure future.

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³⁴ Swami Achyutanand Tirth & Ors v. Union Of India & Ors., MANU/SC/0857/2016.