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FOOD

Understanding Liability for Unsafe Food: Can Restaurants Be Held Accountable for Defective Ingredients?

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Introduction

Food safety is a critical concern in the hospitality industry, particularly for restaurants that serve meals to thousands of consumers daily. A recent judgment by the Allahabad High Court in Piyush Gupta & Others v. State of U.P. & Another (2025) has shed light on an important legal question: Can a restaurant be held liable for using an ingredient that is later found to be unsafe, despite purchasing it in a sealed package from a licensed manufacturer? This case examines the scope of liability under the Food Safety and Standards Act, 2006 (FSSA, 2006) and the legal responsibility of food business operators (FBOs) versus manufacturers.

Brief Facts

On 21.03.2023, an inspection was conducted at a restaurant (Applicant No.2) in Shahjahanpur by the Chief Food Security Officer. During the inspection, sealed packets of Goldiee Masala turmeric powder were found and later sent for examination. The Government Food Laboratory report (dated 15.05.2023) revealed that the turmeric powder contained lead chromate, a harmful substance for human consumption.

As a result, a complaint was filed under Section 26(2)(i) and 59(1) of the Food Safety and Standards Act, 2006, leading to a summoning order against the restaurant and its employee on 16.02.2024. The applicants challenged the order and sought to quash the proceedings, arguing that liability should rest with the manufacturer.

Key Legal Issues

1. Can a restaurant be held responsible for storing and using an ingredient that was later found unsafe, despite purchasing it from a licensed manufacturer?
2. Does a restaurant qualify as a Food Business Operator (FBO) under FSSA, 2006?
3. What level of liability does an FBO bear for unsafe ingredients under Section 26 of FSSA, 2006?

Arguments by the Applicants (Restaurant Owners)

- The restaurant purchased the turmeric powder in sealed packets from a licensed manufacturer with a proper invoice.
- If any defect existed, liability should be on the manufacturer, not the restaurant, as per Section 27 of FSSA, 2006.
- The restaurant was not selling the turmeric powder but using it as an ingredient in food preparation, which should not make them liable under Section 26(2).
- The liability of an FBO should be strict but not absolute, similar to judicial precedents.

Cited Cases by the Applicants:

1. *Food Inspector, Berhampur Municipality v. P. Mohan Rao* (1988 Cr.L.J. 1534) – High Court of Orissa
2. *Gurumurty Patra v. State of Orissa* (Criminal Revision No. 24 of 1984) – Orissa HC
3. *Dinesh Kumar v. State of U.P. & Others* (2000 Cr.L.J. 1879) – High Court of H.P.
4. *Sri Mahaveer Agency & Others v. State of West Bengal* (AIR 2023 SC 2129) – Supreme Court

Arguments by the State (Opposing Party)

- The restaurant qualifies as a Food Business Operator (FBO) under Section 3(1)(o) of FSSA, 2006.
- Section 26(2)(i) of FSSA prohibits an FBO from storing or using unsafe food, whether or not they manufactured it.
- Restaurants must ensure the quality and safety of all food items served to customers, including ingredients used.
- Cited Supreme Court precedents (*Raj Kumar v. State of U.P.*, 2019 (9) SCC 427, and *Pyarali K. Tejani v. Mahadev Ramchandra Dange*, 1974 1 SCC 167) to argue that food safety laws must be strictly followed, even if a warranty exists.

Court's Decision & Legal Provisions Involved

1. Definition of Food Business Operator (FBO):
    - While a restaurant is an FBO for food it prepares and sells, it does not automatically become liable for sealed ingredients purchased from a licensed manufacturer.
    - Liability only arises if the restaurant directly sells the ingredient rather than using it in food preparation.
2. Food Safety Responsibility (Section 26 of FSSA, 2006):

- Restaurants must ensure compliance with food safety standards.
- However, Section 26(4) allows an FBO to rely on warranties provided by manufacturers regarding food quality.

3. Defence Available Under Section 80 of FSSA, 2006:
   - Due diligence is a valid defence if an FBO buys food from a licensed manufacturer with an invoice.
   - Since the restaurant followed proper procedures, it fulfilled its due diligence obligations.
4. Manufacturer's Liability (Section 27 of FSSA, 2006):
   - Primary liability rests with the manufacturer/distributor of the Goldiee Masala turmeric powder.
   - Since the restaurant did not alter the product, it cannot be held liable for its unsafe nature.

Final Decision:

- The Court quashed the proceedings against the restaurant and its employee.
- The Magistrate's summoning order dated 16.02.2024 was set aside.
- The court allowed authorities to proceed against the manufacturer/distributor of the turmeric powder.

Conclusion

This judgment clarifies the liability framework under the FSSA, 2006, reinforcing that restaurants are not responsible for using sealed ingredients from licensed manufacturers, provided they exercise due diligence. The ruling ensuring that liability is placed where it rightfully belongs, on those who introduce unsafe products into the market.

The case sets an important precedent for the hospitality industry, reassuring restaurant owners that following food safety protocols and sourcing from licensed vendors can protect them from undue legal action. However, it also reinforces the strict regulatory standards manufacturers must adhere to, ensuring consumer safety remains the top priority.

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