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Two Mumbai Kitchens, One Statute: What the FDA’s Licence Suspensions Mean in Law

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PUBLISHED 11 October 2026

In the same statewide drive, two of Mumbai's best known eateries, a 122 year old Irani cafe near Marine Lines and a well-known upmarket Chinese restaurant, have had their food licenses suspended. Both cases pose the same legal questions about the speed of a regulator's action, what it must prove and when a suspension must end.

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The drive and the suspensions

The "Safe Food, Safe Maharashtra" campaign was conducted in 14 districts on 23 to 27 September 2026. Maharashtra Food and Drug Administration (FDA) commissioner Tukaram Mundhe took action against 30 license or registration certificates, 13 of which were in Mumbai. As a result of the inspections, 50,601.78 kg of food worth ?1.19 crore was confiscated.

Inspections showed that mice droppings and nests, live flies, and dead cockroaches could be found in the food. In addition, there was blood in the refrigerator and an open sewage manhole in the hall of the heritage cafe, which has been operating since 1904. Such conditions pose a hazard to health, so FDA suspended the cafe's license under the proviso to Section 32(3) of the Food Safety and Standards Act, 2006. The order requires the closure of the cafe until the violations are corrected.

At the Chinese restaurant, an FDA official described widespread mould on stored vegetables and preparation surfaces, cockroaches in the main storage area, no segregation between vegetarian and non-vegetarian preparation, and fryer oil darkened by repeated reuse.

All of this is the regulator's account. The findings and suspensions are allegations and administrative measures, and neither business has been reported as convicted of anything.

The governing law

The Food Safety and Standards Act, 2006 requires every food business to hold a licence or registration and to meet hygiene standards continuously. Section 32 sets a graduated process. An improvement notice gives the operator at least fourteen days to comply. If the operator fails, the licence may be suspended, and cancellation follows only after an opportunity to show cause.

The proviso to Section 32(3) is the exception. It lets the Designated Officer suspend a licence forthwith in the interest of public health, for reasons recorded in writing. That recording requirement is what makes a suspension without a prior hearing defensible.

The reported findings map onto recognisable duties. Pests and an unsealed manhole contribute to sanitation and drainage, mould is a cause for concern in relation to safe storage, and absence of segregation involves cross- contamination controls. Reused frying oil is subject to independent regulation in the form of limits on total polar compounds. Whether the results constitute a current public-health hazard is the legal issue at stake.

Limits on the power

In *Hotel Alankar v. State of Maharashtra*, a Bombay High Court Division Bench of Justices Sharmila U. Deshmukh and Neeraj P. Dhote held that Section 32(3) is a public health – circuit breaker, not a standing penalty. A Karad hotel scored 69% at inspection on 7 July 2026 and was suspended the next day. A re-verification on 31 July recorded 97%, yet the appellate authority upheld the suspension. The Court quashed that order and restored the licence.

Three principles follow:

1. **The power is protective, not punitive.** Once the risk behind an emergency suspension has been substantially cured, the power to keep it in place runs out.

2. **Later compliance must be weighed.** A continued suspension requires consideration of a re-verification report and a finding of continued non-compliance. An oral impression from a hearing cannot override a documented inspection.
3. **Other breaches belong in the penalty provisions.** Sections 55 and 63 provide monetary penalties for matters such as unauthorised operation, and they are not a basis for extending a suspension.

The same Court has also ordered the FDA to pay ?5 lakh in costs to a Pune sweets shop whose licence stayed suspended despite a follow-up inspection showing substantial compliance. Mundhe has said the FDA stands by its action in that case.

Penalties and prosecution

Suspension is only one track. The penalties for bringing unhygienic food are usually set by adjudication where an Adjudicating Officer may impose monetary penalties. Greater offences, especially unsafe food, may result in criminal prosecution, imprisonment on conviction. The track that will apply will vary based on the findings of the inspectors, if samples were tested, and if issues are resolved.

Rights of the businesses

An operator facing action has several routes:

- **Appeal.** A person aggrieved by a suspension may appeal to the Commissioner of Food Safety within fifteen days of the decision being served. The statute calls the Commissioner's decision final. A 2020 Maharashtra amendment bill proposed a second appeal, but its status should be confirmed before anyone relies on it.
- **Adjudication.** Evidence is weighed and penalties decided on the record.
- **Writ jurisdiction.** Finality does not close the High Court's doors where a suspension is arbitrary or disproportionate, as *Hotel Alankar v. State of Maharashtra* shows.

Why this matters

The FDA's position is that a kitchen with pests, mould or an exposed manhole cannot be left running through a notice period. Mundhe says only a small share of inspections end in suspension. An earlier 100 day drive this year covered 12,000 outlets and produced 603 suspensions and more than 5,200 notices.

Hotel and restaurant lobby groups argue that a forthwith power meant for exceptional cases risks becoming routine, with reputational harm done before any adjudication. For consumers, the cases are a reminder that licence details should be displayed and that complaints can be raised with the state FDA.

Age and fame bring public sympathy but no legal immunity. The Act makes no exception for heritage establishments or well – known brands.

Conclusion

The suspensions illustrate both the might and the boundaries of the FDA's authority. The lesson for the regulator is to state upfront specific reasons and engage with later evidence of compliance. Operators must document the fix, request a prompt reinspection and file any appeal within fifteen days. The way in which the Commissioner and, where necessary, the High Court deal with these cases will help to delineate the line between firm enforcement and excessive action.

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