

# Istore Direct Trading Private Limited vs Food Safety And Standards Authority Of ... on 21 February, 2023

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

\$~8, 37 to 42

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 1902/2023 and CM APPL. 7241/2023

ISTORE DIRECT TRADING PRIVATE LIMITED ..... Petitioner

Through: Mr. Adit Pujari, Mr. Maitreya

Subramaniam & Ms Aparajita Si

Advocates (M-9830843752)

versus

FOOD SAFETY AND STANDARDS AUTHORITY OF

INDIA

..... Resp

Through: Mr. Rakesh Chaudhary & Mr. Vij

Jakhwal, Advocates for FSSAI.

37 WITH

+ W.P.(C) 5396/2021 and CM APPL. 16688/2021, 31281/2021,

31282/2021, 2221/2022

NATIONAL COOPERATIVE DAIRY FEDERATION

OF INDIA

..... Peti

Through: Mr. Abhishek Singh, Mr. J. Ama

Anand, Mr. Elvin Joshy, Ms. I

Mushatq & Ms. Alisha Sharma,

Advocates (M-7889694283)

versus

FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &

ORS.

..... Resp

Through: Mr. Rakesh Chaudhary & Mr. Vij

Jakhwal, Advocates for FSSAI.

Mr. Vipul Agrawal & Mr. Dushy

Agrawal, Advs. for R-3 (M-

9669116295).

Mr. Harsh Hiroo Gursahani, Mr.

Abhishek Manchanda, Mr. Prash

Gupta & Ms. Karthika Rajmohan

Advocates for R-4.

Mr. Adit Pujari, Mr. Maitreya

Subramaniam & Ms Aparajita Si

Advocates in R-5.

Mr. Rajshekhar Rao, Sr. Adv.

Ms. Smriti Sinha, Ms. Eesha D

Signature Not Verified

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By:DEVANSHU JOSHI

Signing Date:22.02.2023

18:33:08

Ms. Shriyanshi Pathak, Advocate  
Intervener.

38 WITH  
+ W.P.(C) 10028/2021 and CM APPL. 30946/2021, 37056/2021  
DRUMS FOOD INTERNATIONAL PRIVATE LIMITED AND  
ANOTHER. & ANR. .... Petitioner  
Through: Mr. Harsh Hiroo Gursahani, Mr.  
Abhishek Manchanda, Mr. Prashan  
Gupta & Ms. Karthika Rajmohan,  
Advocates (M- 9599945058)  
versus  
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &  
ANR. .... Respondent  
Through: Mr. Rakesh Chaudhary & Mr. Vijay  
Jakhwal, Advocates for FSSAI.  
Mr. Aman Naqvi for Mr. Shadan  
Farasat, ASC, GNCTD.  
Mr. Elvin Joshy, Ms. Insha Mush  
Ms. Alisha Sharma, Advocates.

39 WITH  
+ W.P.(C) 10029/2021 and CM APPL. 30948/2021, 37053/2021  
HERSHEY INDIA PRIVATE LIMITED & ANR. .... Petitioner  
Through: Mr. Harsh Hiroo Gursahani, Mr.  
Abhishek Manchanda, Mr. Prashan  
Gupta & Ms. Karthika Rajmohan,  
Advocates.  
versus  
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &  
ANR. .... Respondent  
Through: Mr. Rakesh Chaudhary & Mr. Vijay  
Jakhwal, Advocates for FSSAI.  
Mr. Elvin Joshy, Ms. Insha Mush  
Ms. Alisha Sharma, Advocates

40 WITH  
+ W.P.(C) 10030/2021 and CM APPL. 30950/2021, 37054/2021  
ISTORE DIRECT TRADING PRIVATE LIMITED  
& ANR. .... Petitioner  
Through: Mr. Adit Pujari, Mr. Maitreya

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By:DEVANSHU JOSHI  
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Subramaniam & Ms Aparajita Si  
Advocates.

versus  
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &  
ANR. .... Respondent  
Through: Mr. Rakesh Chaudhary & Mr. Vijay

Jakhwal, Advocates for FSSAI.  
Mr Satyakam, ASC for GNCTD.  
Mr. Elvin Joshy, Ms. Insha Mush  
Ms. Alisha Sharma, Advocates

41 WITH  
+ W.P.(C) 10031/2021 and CM APPL. 30952/2021, 37111/2021  
RAKYAN BEVERAGES PRIVATE LIMITED AND ANOTHER. &  
ANR. .... Petition  
Through: Mr. Harsh Hiroo Gursahani, Mr.  
Abhishek Manchanda, Mr. Prashan  
Gupta & Ms. Karthika Rajmohan,  
Advocates.  
versus  
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &  
ORS. .... Respond  
Through: Mr. Rakesh Chaudhary & Mr. Vijay  
Jakhwal, Advocates for FSSAI.  
Mr. Gautam Narayan, ASC,  
GNCTD with Ms. Asmita Singh,  
Adv.

42 WITH  
+ W.P.(C) 9939/2021 and CM APPL. 30648/2021, 37115/2021  
VEGANARKE ENTERPRISES PRIVATE  
LIMITED & ANR. .... Petitione  
Through: Mr. Nikhil Singhvi, Mr. Parth  
Aggarwal, Mr. Milind Raj Dixit &  
Mr. Bilal Ikram, Advs. (M-  
7347688230)  
versus  
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA &  
ANR. .... Respondents  
Through: Mr. Rakesh Chaudhary & Mr. Vijay

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By:DEVANSHU JOSHI  
Signing Date:22.02.2023  
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Jakhwal, Advocates for  
Ms. Rachita Garg, Advoc  
(M- 9838848183)

CORAM:  
JUSTICE PRATHIBA M. SINGH  
ORDER

% 21.02.2023

1. This hearing has been done through hybrid mode. CM APPLs. 31281/2021, 31282/2021 in  
W.P.(C) 5396/2021

2. These are applications for condonation of delay. For the reasons stated in the applications, the  
delay is condoned. Applications are disposed of.

3. Issue notice in W.P.(C) 1902/2023.

4. Let the Food Safety and Standards Authority of India (FSSAI) file counter in W.P.(C) 1902/2023 within four weeks. Rejoinder, thereto, be filed within four weeks.

5. In all these petitions, the core issue that has arisen is whether the use of the word 'milk' and other terminologies such as ghee, butter, etc. can be restricted only to animal based products or can plant based products and drinks be also permitted to use the said terminology.

6. The allegations of Petitioner in W.P. (C) 5396/2021- National Cooperative Dairy Federation of India is that for plant based products, the expressions such as milk, butter, ghee ought not be permitted to be used as the same is not permissible under the prevalent FSSAI Regulations.

7. On the other hand, the argument of manufacturers of products and beverages containing almond, soya, oats and other plant based beverages is that internationally the word 'milk' is used in respect of all these products and a clarification is issued on the packaging that the same is 'plant based' or 'dairy free'. The FSSAI has, in its counter affidavit, has also raised concerns in respect of e-commerce platforms which market and sell these products.

8. Heard. The concerns that need to be addressed in these petitions is two fold:

i) That those consumers who wish to consume traditional dairy milk based products might not be able to distinguish between dairy based milk products and the newly available plant based and other non- dairy products;

ii) That consumers who wish to consume plant based and non-dairy products, due to medical or any other reasons, also ought to be able to easily purchase and consume these products while clearly being aware that the same are plant based / non-dairy products.

9. In the opinion of the Court, FSSAI being the authority which makes regulations in this field ought to consider whether a fresh stakeholder consultation in this regard is needed in order to arrive at a consensus based use of terminology which can also be incorporated in the Regulations.

10. Let Id. Counsel for FSSAI- Mr. Rakesh Kumar seek instructions in this regard and place a short affidavit on the next date of hearing as to the manner in which the above issues can be resolved and whether a consultation would be required.

11. List on 25th May, 2023. A competent official of the FSSAI shall also remain present in Court on the next date.

12. Interim orders to continue.

PRATHIBA M. SINGH, J.

FEBRUARY 21, 2023/Rahul/dj/sk