

# **S.K.P.Sago Factory vs Food Safety And Standards on 14 July, 2022**

**Author: R.Subramanian**

**Bench: R.Subramanian**

W.P.No.2435

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.2435 of 2017

and

W.M.P.Nos.2417 to 2419 of 2017

S.K.P.Sago Factory,  
Rep. by its Proprietor S.Kalaimani,  
Kulathukadu, Ponnoli Nagar,  
Varagur Post, Attur Taluk,  
Salem District.

...Petitioners

Vs.

1.Food Safety and Standards  
Authority of India,  
Ministry of Health and Family Welfare,  
FDA Bhavan, Kotla Road,  
New Delhi - 110 002.

2.Commissioner of Food Safety,  
No.359, Anna Salai, V Floor,  
DMS Office Building,  
DMS Campus, Teynampet,  
Chennai - 600 006.

3.Registrar of Industrial Co-operative  
Society/Commissioner,  
Industries and Commerce,  
No.36, South Canal Bank Road,  
Mandavelipakkam,

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<https://www.mhc.tn.gov.in/judis>

W.P.

Raja Annamalaipuram,  
Chennai - 28.

4.Designated Officer,  
Food Safety and Drug  
Administration Department,  
Salem District.

5.Designated Officer,  
Food Safety and Drug  
Administration Department,  
Namakkal District.

...Res

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari and Mandamus, calling for the records relating to the proceedings in R.No.92/2016/S6/FSSA dated 13.10.2016 on the file of the 2nd respondent herein and quash the same and consequently direct the respondents herein not to impose ban or any restrictions in contravention of the provision of the Food Safety and Standards Act, 2006 against the manufacture, sale and transport of Tapioca Starch by the petitioner herein.

For Petitioner	: Mr.V.R.Rajasekaran
For R2 to R5	: Mr.P.Anandakumar Government Advocate
For R1	: No Appearance

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#### ORDER

Challenge in the Writ Petition is to the order dated 13.10.2016 passed by the second respondent, banning the sale of Wet Starch for manufacturers of Sago from 14.09.2015.

2. The said order came to be passed pursuant to an interim direction issued by the Hon'ble Division Bench of this Court in W.P.No.20124 of 2015, dated 07.09.2015. Thereafter, some of the manufacturers had challenged the ban order issued on 14.09.2015 in W.P.No.36568 of 2015. When the said writ petition was taken up for hearing, the Division Bench observed as follows:-

"Despite repeated questions, the Special Government Pleader is not able to get instructions from his officer as to what are the requirements which the petitioners

should meet before they are permitted to open the factory again. This was the same query posed on 16.06.2016.

2. A situation cannot be countenanced where the respondents do not know what are the violations the petitioners have to remedy to open up the manufacturing units again.

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3. We have thus no option but to direct the respondents to intimate each of the petitioners, the requirements to be fulfilled to permit the factory to be opened, whether as a temporary measure with further checking or as a permanent measure. Such intimation be sent within a period of 15 days from today to each of the petitioners separately and it is for the petitioners to comply with the requirements thereafter."

3. After this order dated 02.08.2016 was passed by the Division Bench, on 13.10.2016, the Food Safety Officer passed the order impugned in this Writ Petition, referring to the order of the Division Bench dated 07.09.2015. Subsequently, W.P.No.20124 of 2015, in which the interim order dated 07.09.2015 was passed, came to be disposed of by this Court, observing that the notification issued by the Ministry of Health and Family Welfare dated 24.10.2017 published in the Gazette of India dated 31.10.2017 amending the Food Safety and Standards Regulations, 2011, in relation to Tapioca Sago, would take care of the quality control measures that are expected from Sago Manufacturers and hence, the Writ Petition has become infructuous.

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4. In the light of the above developments, the Commissioner of Food Safety had withdrawn the ban imposed by the order impugned in this Writ Petition on 02.06.2017. Therefore, the Writ Petition has, in essence, become infructuous. It is not in dispute that the petitioners are following the other requirements regarding the required machinery and other operational regulations.

5. Mr.V.R.Rajasekaran, learned counsel for the petitioner would however submit that this power to ban sale of Wet Starch for Sago manufacturing is being misused very often and the same has to be prevented.

6. From the order of the Division Bench dated 02.08.2016, it is clear that the officials do not want to spell out the requirements and they want to keep it under wraps to be used by them whenever it is comfortable for them. The Scientific Committee in its meeting held on 04.08.2016, had in fact reached a conclusion that banning or not banning the sale of Wet Starch for manufacture of Sago is not within the purview of provisions of various regulations notified under the Food Safety and Standards Act, 2006. <https://www.mhc.tn.gov.in/judis> The Committee had suggested that since different chemicals are used in the manufacture of Sago, the limits for residue of such chemicals should be prescribed.

7. Therefore, it is clear that leaning towards the ban of sale of Wet Starch for manufacturing of Sago is almost extinct today. However, if the respondents find that there is adulteration or that the residue of the chemicals like Sodium Hypochlorite, Sulphuric Acid, Hydrochloric Acid, Phosphoric Acid, Nitrogen Peroxide, Calcium Hypochlorite in the Sago that is manufactured is more than the permitted level, it is open to them to take appropriate action as permitted under law.

8. The Writ Petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

14.07.2022 Index:No Internet:Yes Speaking order hvk <https://www.mhc.tn.gov.in/judis> To:-

1.Food Safety and Standards Authority of India, Ministry of Health and Family Welfare, FDA Bhavan, Kotla Road, New Delhi - 110 002.

2.Commissioner of Food Safety, No.359, Anna Salai, V Floor, DMS Office Building, DMS Campus, Teynampet, Chennai - 600 006.

3.Registrar of Industrial Co-operative Society/Commissioner, Industries and Commerce, No.36, South Canal Bank Road, Mandavelipakkam, Raja Annamalaipuram, Chennai - 28.

4.Designated Officer, Food Safety and Drug Administration Department, Salem District.

5.Designated Officer, Food Safety and Drug Administration Department, Namakkal District.

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