

Prafulla Prakash Tripathi vs The State Of Madhya Pradesh on 3 September, 2021

Author: Chief Justice

Bench: Chief Justice

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WP-17425-2012

The High Court Of Madhya Pradesh
WP-17425-2012
(PRAFULLA PRAKASH TRIPATHI Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Jabalpur, Dated : 03-09-2021
Heard through Video Conferencing.

Shri Hemant Namdeo, learned counsel for the petitioner.
Shr Ashish Anand Bernard learned Deputy Advocate General for the respondents/State.

This petition has been filed by the petitioner-Prafulla Prakash Tripathi in the form of Public Interest Litigation with a prayer that the State Government be directed to make rules and regulations in exercise of power conferred under Section 94 of the of the Food Safety and Standards Act, 2006 (hereinafter referred to as "the Act of 2006") and till the formation of such rules, the old rules be kept in force.

The petitioner has filed the present petition following the enactment of Food Safety Rules, 2006 and submitted that the State Government by virtue of power conferred on it under Section 94 of the Act of 2006, ought to have immediately framed the rules to give effect to its provisions and it has not done so.

The State Government in paragraph 4, 5, and 6 of its reply has stated as under:-

"4. That the main grievance of the petitioner is in respect of framing of rules as per the provisions of Act of 2006 and it has been contended by the petitioner that in spite of lapse of 6 years the State Government has not framed rules under the provisions of Section 94 of the Act, 2006. In this regard it is submitted that the Act of 2006 has come into force with effect from 5th of August, 2011 only the Central Government under the Act has constituted a statutory body known as the Food Safety and Standards Authority of India (FSSAI) which has framed

2 WP-17425-2012 number of Rules and Regulations on all the important issues, these rules and regulation are:-

1. The Food Safety and Standards Rules, 2011.

2. The Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011.

3. The Food Safety and Standards (Packaging and Labelling) Regulations, 2011.

4. The Food Safety and Standards (Food products Standards and Food Additives) Regulations, 2011.

5. The Food Safety and Standards (Prohibition and restrictions on Sales) Regulations, 2011.

6. The Food Safety and Standards (Contaminants, Toxins and Residues) Regulations, 2011.

7. The Food Safety and Standards (Laboratory and Sample Analysis) Regulations, 2011.

8. The Food Safety and Standards (Removal of Difficulties) Regulations, 2011 etc.

5. It is further submitted that the Food Safety and Standards Rules 2011 and various regulations made by the FSSAI cover as stated above all the important aspects and subjects which are necessary for effective implementation of the Act. Since enough rules and regulations have been brought into force by the Central Government and FSSAI, the State Government does not feel any necessity to frame any rules on any issue.

6. The answering respondents submit that as per the provisions of section 43 of the Act of 2006 it is clear that Food Authority has been given ample powers for notifying laboratories for carrying the test etc. and therefore it is not required for the State Government to frame any further rules."

In view of the categorical stand taken by the State Government that the

3 WP-17425-2012 Central Government of India having exercised its powers conferred under Section 91 of the Act of 2006, has framed the rules known as the Food Safety and Standards Rules, 2011 and the Food Safety and Standards Authority of India has promulgated number of regulations. All the important aspects and subjects which are necessary for effective implementation of the Act, are already covered. Since enough rules and regulations have been brought into force by the Central Government and FSSAI, the State Government does not deem it necessary to frame any further rules on this issue.

It is further stated that Section 43 of the Act of 2006 also provides that Food Authority has been given ample powers for notifying laboratories for carrying out the test etc., therefore, the State Government is not required to frame any further rules in this respect.

Having regard to the stand taken by the respondents/State and the fact that the matter is pending for last 9 years, we do not see any point in keeping the petition pending. However, liberty is given to the petitioner to make further study in depth and find out if there still exists any lacuna in the implementation of the aforesaid Act, Rules and Regulations or any further action is required to be taken by the State Government. If so, the petitioner shall approach the respondents, and if nothing is done in a reasonable time, he may again approach this Court.

With the aforesaid observation, the petition stands disposed of.

(MOHAMMAD RAFIQ)
CHIEF JUSTICE

(VIJAY KUMAR SHUKLA)
JUDGE

MSP

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