

Nagrik Upbhokta Margdarshak Manch vs The State Of Madhya Pradesh on 4 December, 2023

Author: Chief Justice

Bench: Ravi Malimath, Vishal Mishra

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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE VISHAL MISHRA
ON THE 4th OF DECEMBER, 2023
WRIT PETITION No. 2591 of 2017

BETWEEN: -

NAGRIK UPBHOKTA MARGDARSHAK MANCH
THROUGH ITS PRESIDENT DR. P.G. NAJPANDE S/O
LATE G.N. NAJPANDE AGED ABOUT 76 YEARS, R/O 6/47,
RAMNAGAR ADHARTAL JABALPUR (MADHYA
PRADESH)

(BY SHRI D.K. UPADHYAY - ADVOCATE)

AND

1. STATE OF MADHYA PRADESH DEPARTMENT OF
HEALTH AND FAMILY WELFARE THROUGH ITS
SECRETARY VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)
2. COMMISSIONER FOOD SAFETY DEPARTMENT,
IDGAH HILLS, BHOPAL (MADHYA PRADESH)
3. COLLECTOR (FOOD) AND DISTRICT
MAGISTRATE JABALPUR, DISTRICT JABALPUR
(MADHYA PRADESH)
4. MUNICIPAL CORPORATION JABALPUR
THROUGH ITS COMMISSIONER, JABALPUR
(MADHYA PRADESH)

(SMT. JANHAVI PANDIT - ADDITIONAL ADVOCATE GENERAL FOR
RESPONDENTS NO.1 TO 3)

This petition coming on for admission this day, Hon'ble

Signature Not Verified
Signed by: SHALINI
LANDGE
Signing time: 12/6/2023
9:47:39 AM

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Ravi Malimath, Chief Justice passed the following:
ORDER

The present petition is filed in public interest seeking the following reliefs :-

"i) This Hon'ble Court be pleased to direct the respondent to take appropriate preventing the milk seller and vender for selling the adulterated milk.

ii) This Hon'ble court be pleased to direct the respondents to no person should sell out the milk without registration and license under the provision of the Food Safety and Standard Act, 2006 and Rules, 2011.

iii) This Hon'ble court be pleased to direct the respondents to appropriate effort regarding supplying the better quality milk by taking sample at regular periods and examining them so that those who are adulterating the milk are prosecute accordance with Act 2006 and Rule 2011.

iv) Any other order/orders that this Hon'ble Court deems fit the proper in the facts and circumstances of the case may also kindly be passed."

2. The case of the petitioner is that adulterated milk is being sold not only in Jabalpur but in the entire State of Madhya Pradesh. That there are number of dairy owners, hawkers and shop-keepers who sell adulterated milk in their locality by adding water in the milk and also various other substances are added to the milk for purposes of profit. There is a lot of milk that is being sold which is unpacked. Therefore, the instant writ petition has been filed in larger public interest to save the health of the public by seeking the aforesaid reliefs.

3. The reply has been filed by the respondent No.3 on 02.12.2019. The case of the petitioner was disputed. It was further contended therein that random samples were taken from different vendors including the dairy owners, hawkers as well as shop keepers and they were sent for analyzing the same. As a consequence whereof, three cases were registered against the vendors selling milk without licence. That various persons have already been convicted for indulging in adulteration of milk. That there does not appear to be any bar in selling unpackaged milk. Therefore, it is not possible for the State to compel the milk vendor to sell milk only in packages. It is further pleaded that individual vendors sell the milk procured from the cattle in which they own. They belong to the lowest strata of the society. Therefore, the only anxiety of the State is to ensure that adulterated milk is not sold but they cannot impose a ban on the same. That all efforts are being made by the State to ensure prevention of adulteration of milk.

4. The counter reply has been filed to the same. Thereafter, the State has filed an additional reply on 05.05.2023 wherein they have stated that random samples were taken for testing in the laboratory. That the action has been taken for prosecuting those found selling adulterated milk. Details of the same have been found in the additional reply wherein they have stated in paragraph 8 onwards as follows :

"8. That the following chart indicates the cases of adulteration of milk in which prosecution has been initiated and the matters are pending consideration before the Adjudicating Officer (ADM) :

Names of S.No. Case no.

Vendors

1. Deepak Yadav 187/20-21
2. Shirish Soni 180/22-23
3. Savita Yadav 39/22-23 Pram Chand
4. 01/23-24 Rajak
5. Ashish Nayak 136/22-23
6. Sachin Tulaswani 220/22-23

9. The following chart lists the vendors who have been convicted and fined for adulteration of milk :

Names of S.No. Conviction/Fine Vendors

1. Abhishek Tripathi 20000/-
2. Ashok Patel 5000/-
3. Prem Singh 5000/-
4. Munna Yadav 10000/-
5. Pradeep Jhariya 5000/-
6. Brajendra Patel 20000/-
7. Sanjay Patel 5000/-

10. That it is most respectfully submitted that the answering Respondents are continually monitoring and taking action against vendors who are selling milk without registration / license. That it is submitted that the Food Safety and Standards Authority of India (FSSAI) have provided Mobile food Testing Laboratory to Jabalpur Division. These mobile units are called 'Food Safety on Wheels'. The mobile units provide on spot test facilities for examining qualitative adulteration in common food items like ghee, milk, sweets, etc. Any person can get a sample analyzed at a nominal cost of Rs. 10. The Mobile unit has sampled 535 milk samples randomly from Nov 2021 to Mar 2023 in Jabalpur and none of them have been found injurious to health. Any regulatory milk sample reports have not been declared unsafe by any Food analyst yet. In some cases, the fat % of milk has been found below the standard indicating possible adulteration by water. In such cases, the Adjudicating Officer imposes penalty on the Food business operator. A copy of the order dated 03.06.2020 issued by the Commissioner Food Safety Administration Bhopal is filed herewith as Annexure R-1. 11. That, a proposal has also been sent for operating the Mobile units through the Red Cross Society, Municipal Corporation. However, currently the Mobile Unit in the Jabalpur Division is being operated through the Department. A copy of the order dated 06.11.2020 issued by the Commissioner Food Safety Administration Bhopal is filed herewith as Annexure R-2.

12. It is further pertinent to mention here that 25 Mobile food vendors have been identified who were selling milk without ESSAI registration in the city of Jabalpur. The same are under process for registration of cases against them before the ADM.

13. The State Government has launched a campaign Milavat se Mukti w.e.f. 09.11.2022 in the State of Madhya Pradesh. Under the aforesaid campaign which covers all categories of food products and around more than 2000 samples of various food products including milk & milk products are collected in the district of Jabalpur. That, more than 100 samples of milk and milk products were collected across the city including rural areas from whole sellers, retailers and milk producers.

14. That a meeting was organized by video conferencing, wherein the Commissioner Food Safety Administration Bhopal, issued directions to all the Designated Officers / Food Safety Officers appointed in the State and districts under the Food Safety and Standard Act 2006 and Regulations of 2011 with regard to effective implementation of the Milawat se Mukti Campaign. The directions included creating awareness regarding the adulteration in food products, increase sampling of food products, taking proper samples, ensure proper issuance of licenses/ registration within prescribed time, ensure filing of cases in the Court of ADM/CJM, etc. A copy of the proceedings is filed herewith as Annexure R-3.

15. That vide letter dated 27.02.2023 and 02.03.2023, the Commissioner Food Safety Administration Bhopal directed all Collectors to carry out special campaign against the adulteration of milk by random samplings, lab analysis and for taking strict action against the milk vendors who are found engaged in Copies of the letters dated 27.02.2023 and 02.03.2023 issued by the Commissioner Food Safety Administration Bhopal are collectively filed herewith as Annexure R-4.

16. That the details of the milk samples taken in the entire State of Madhya Pradesh and action taken, penalties imposed, FIRS registered for the year 2020 to 2023 are filed herewith as Annexure R-5. That the details of samples of milk taken, action taken in the city of Jabalpur are filed herewith as Annexure R-6.

17. That copies of the notices issued to the Food Business Operators regarding the samples of milk taken are collectively filed herewith as Annexure R-7.

18. That, copies of reports of Food Analyst indicating the reports being conducted by the authorities on the basis of random sampling of milk and milk products are filed herewith as Annexure R-8. That, copies of the orders of penalties imposed under the Act of 2006 against several persons are filed herewith as Annexure R-9.

19. That considering the aforesaid, it is most respectfully submitted that the answering Respondents are taking all possible measures for curbing the sale of adulterated milk in the city of Jabalpur as well as in the State of Madhya Pradesh. They are continually monitoring the sale of adulterated milk and taking strict action against the guilty persons in accordance with law."

5. We have also considered the documents produced by them. On considering the same, learned counsel for the petitioner submits that for the present he does not have any grievance against the respondents for the action that they have taken. However, he insists that this being a continuous process, the State should continue in his action since it cannot be said that the act of adulteration has come to an end.

6. The learned Additional Advocate General by relying on the set of objections and action taken report submits that it is a continuing process to check adulteration of milk and the action of the State would be a continued process.

7. Under these circumstances, on considering the contentions as well as the affidavits, we are of the view that appropriate action is being taken by the State. The State has also assured the court that necessary action would be taken not only for prosecuting those selling adulterated milk but, it would also be ensured that adequate preventive measures are taken. In view of the same, nothing further survives for consideration.

8. The writ petition is dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

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