

# Al Cherry vs / on 3 January, 2024

**Author: B.Pugalendhi**

**Bench: B.Pugalendhi**

W.P(MD)

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.17929 of 2017  
and  
W.M.P.(MD)Nos.14446 and 14447 of 2017

Al Cherry,  
By its Proprietor,  
K.M.Jamal Mydeen,  
No.18/B, Sathiyapuram,  
NH-45, Melur Taluk,  
Madurai District.

... Peti

/Vs./

The Food Safety Officer,  
Food Safety and Administrative Department Office,  
Public Health Department Campus,  
Visavanathapuram, Madurai.

... Resp

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the  
issuance of a Writ of Certiorari, to call for the records of the impugned order  
passed by the respondent in his proceedings dated 15.09.2017 quash the

For Petitioner : Mr.C.Susi Kumar  
For Respondent : Mr.A.Baskaran

Additional Government Pleader

1/7

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

W.P

The order of the respondent/Food Safety Officer sealing the petitioner packed drinking water unit, is under challenge in this writ petition.

2.The petitioner/ Al Cherry is a private unit manufacturing packed drinking water at Sathiyapuram, Madurai from the year 2012 by obtaining necessary Form- C license from the Tamil Nadu Food Safety and Drug Administration Department on 16.11.2012. It was also registered with the Department of Industries and Commerce on 08.12.2012. The license granted to the petitioner Unit was also periodically renewed. While so, the respondent issued the impugned order dated 15.09.2017 stating that this petitioner Unit has not obtained any proper license i.e., ISI, FSSAI from the Government and directed the petitioner to stop the water plant. The petitioner Unit was also sealed by the impugned order.

3.The learned counsel for the petitioner submits that the Food Safety and Standards Authority of India (FSSAI) has granted permission to the petitioner Unit upto 21.02.2018. The Tamil Nadu Food Safety and Drugs Administration <https://www.mhc.tn.gov.in/judis> wing has also issued license to the petitioner Unit and the petitioner Unit is running from the year 2012 as per the rules and regulations.

4.He would further submit that in the event if the petitioner is required to obtain any other permission from the authorities concerned, the respondent ought to have issued a show cause notice calling upon the petitioner to obtain such permission and by providing an opportunity of hearing, the respondent ought to have passed the order of sealing the premises. However, no prior notice was issued to the petitioner before passing the impugned order. According to the learned counsel for the petitioner, the order impugned in this writ petition is in violation of the provisions under Sections 31(1) and 31(9) of the Food Safety and Standards Act, 2006.

5.The learned counsel for the petitioner, on instructions, submits that now the son of the present proprietor of the petitioner Unit is running the Unit and he undertakes to run the water plant after obtaining necessary permission and certificate from the authorities concerned.

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

6.The learned Additional Government Pleader appearing on behalf of the respondent, based on the written instructions provided to him, submitted that all the packed drinking water companies have to obtain necessary certificate from the Bureau of Indian Standards. Based on the certificate of the Bureau of Indian Standards, they have to obtain permission from the Food Safety Department. They are also expected to set up a laboratory in their premises, to engage a Chemist and Microbiologist and to maintain a record.

7.In the present case, the petitioner Unit has not obtained ISI certificate from the Bureau of Indian Standards. That apart, on 13.09.2014 an inspection was made and samples were collected from the petitioner Unit. In the analysis, it was found that the quality of the water was substandard and

hence, the petitioner Unit was prosecuted before the District Revenue Officer for misbranded. Hence, the respondent opposed this petition.

8.This Court considered the rival submissions made on either side.  
<https://www.mhc.tn.gov.in/judis>

9.Admittedly, the petitioner Unit is running from the year 2012 by obtaining proper license from the authorities concerned. It was also periodically renewed upto the year 2018. However, the respondent by the order impugned in this writ petition dated 15.09.2017 has sealed the premises stating that the petitioner Unit has not obtained ISI and FSSAI Certificates.

10.This Court while entertaining this writ petition on 21.09.2017, considering the facts of the petitioner's case, had granted an order of interim stay. Pursuant to the same the petitioner Unit is still functioning. Though the writ petition is of the year 2017, the respondent has not chosen to file any counter affidavit.

11.In view of the facts discussed above and taking note of the fact that the petitioner Unit is running with a proper license, this Court directs the petitioner to make an application before the Bureau of Indian Standards and Food Safety Officers within a period of eight weeks from the date of receipt of a copy of this order seeking certificates as required under Section 31 of FSSAI Act 2006. The said application shall be considered by the concerned authorities as expeditiously  
<https://www.mhc.tn.gov.in/judis> as possible taking into consideration of the fact that this petitioner Unit is running from the year 2012. Till such certificates are issued by the authorities concerned, the petitioner Unit shall stop the production.

12.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

03.01.2024 Index : Yes / No Internet : Yes / No ta To The Food Safety Officer, Food Safety and Administrative Department Office, Public Health Department Campus, Visavanathapuram, Madurai.

<https://www.mhc.tn.gov.in/judis> B.PUGALENDHI,J.

ta 03.01.2024 <https://www.mhc.tn.gov.in/judis>