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**IN THE HIGH COURT OF BOMBAY AT GOA****PIL WRIT PETITION NO.41 OF 2018**

Sanjeev Shrinivas Pai Raiturkar  
 Son of Shrinivas Pai Raiturkar, 52  
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... Petitioner

***Versus***

1. State of Goa,  
    Through the Chief Secretary  
    Having office at Secretariat,  
    Panaji, Goa.
2. The Margao Municipal Council,  
    Through its Chief Officer with  
    office at Margao Municipal Council,  
    Opposite Margao Municipal  
    Council Margao, Salcee, Goa.
3. The South Goa Planning and  
    Development Authority, through its  
    Member Secretary, with office at  
    Fourth Floor, Osia Complex,  
    Margao, Salcete, Goa.
4. Food and Standards Authority of  
    India, Through its Chief Executive  
    Officer/Member Secretary, With  
    office at FDA Bhawan near  
    BalBhavan, Kotla Road,  
    New Delhi-110002

5. The Commissioner/Director of Food and Drugs Administration, with office at Dhanvantari, Bambolim, Tiswadi, Goa
6. Goa State Pollution Control Board, Nr. Pilerne Industrial Estate, Opp. Saligao Seminary, Saligao - Bardez Goa-403511.
7. Health Officer, Urban Health Centre, Margao, Having Office at Urban Health Centre, Opp. Hospicio, Margao, Goa.
8. Goa State Infrastructure Development Corporation, Panaji Goa.
9. Export Inspection Council, Ministry of Commerce and Industries, New Delhi. ... Respondents

Mr J.E. Coelho Pereira, Senior Advocate with Mr Pancham Phadte, Advocate for the Petitioner.

Mr D. Pangam, Advocate General with Mr N. Vernekar, Additional Government Advocate for Respondent Nos.1, 5 and 7. Mr S.D. Padiyar with Mr P. Shirodkar and Ms A. Rane, Advocate for Respondent No.2.

Mr A.D. Bhobe, Advocate for Respondent No.3.

Mr D. Lawande with Mr P. Dangui, Advocate for Respondent No.4.

Mr S.P. Munj, Advocate for Respondent No.8.

**CORAM:**           **M. S. SONAK &  
VALMIKI SA MENEZES, JJ.**

**Reserved on:**   **5<sup>th</sup> FEBRUARY 2024**  
**Pronounced on:**   **14<sup>th</sup> FEBRUARY 2024**

**JUDGMENT : (*Per M.S. Sonak, J.*)**

- 1.** Heard Mr J.E. Coelho Pereira, learned Senior Advocate with Mr Pancham Phadte for the petitioner. Mr D. Pangam learned Advocate General, appears with Mr N. Vernekar, learned Additional Government Advocate for respondent Nos.1, 5 and 7, Mr S.D. Padhyar appears with Mr P. Shirodkar and Ms A. Rane for respondent No.2, Mr A.D. Bhobe appears for respondent No.3, Mr D. Lawande appears with Mr P. Dangui for respondent No.4, and Mr S.P. Munj appears for respondent No.8.
  
- 2.** Rule. The rule is made returnable immediately at the request of and with the consent of the learned Counsel appearing for the parties.
  
- 3.** This Public Interest Litigation Writ Petition raised broadly the following issues:-
  - (a) The issue of formalin or formaldehyde in the fish market in the State of Goa;
  
  - (b) The competence of the South Goa Planning and Development Authority (SGPDA) to construct and operate a wholesale fish market at Margao, Goa;
  
  - (c) The issue of whether the SGPDA can operate a wholesale market without obtaining permissions from the Margao Municipal Council and the Authorities under the Food Safety and Standards Act, 2006.

4. In so far as the first issue is concerned, the same stands covered by this Court's order dated 09.01.2024 in the batch of PIL Writ Petition Nos.26,29, 31 of 2018 and 8 of 2019.
5. The order dated 09.01.2024 made in the above petitions reads as follows:-

**“CORAM:DEVENDRA KUMAR UPADHYAYA, CJ**

**and M. S. SONAK, J.**

**DATE: 9<sup>th</sup> JANUARY 2024**

**ORAL ORDER :**

1. Heard the learned Counsel representing the respective parties.
2. These Public Interest Litigation petitions invoke our jurisdiction under Article 226 of the Constitution of India, expressing serious concerns regarding the high level of formalin or formaldehyde used as a preservative to preserve the fish.
3. The Food Safety and Standards Authority is a statutory body created under the Food Safety and Standards Act of 2006 and has been vested with certain functions and duties. Section 16 unequivocally provides, rather, mandates that it shall be the duty of the Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food items. It also mandates that the Authority shall also provide scientific advice and technical support to the Central Government and the State Governments in matters of framing policy and rules in areas which have a direct or indirect bearing on food safety and nutrition. Section 16 also entrusts the Authority with

*the duty to make regulations specifying inter alia the limits for the use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, mycotoxins, antibiotics and pharmacologically active substances and irradiation of food.*

4. Chapter 7 of the Act of 2006 contains various provisions for enforcement of the Act. Section 29 provides that the Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of the Act, and they shall also monitor and verify that those operating food businesses fulfil the relevant requirements of the law at all stages. It also mandates the Authorities to maintain a system of control and other activities which may be appropriate. Sub-section 4 of Section 29 specifically provides that the Food Safety Officers (who are the State Government Officials) shall enforce and execute within their area the provisions of the Act in respect of which the duty is not cast upon any other Authority expressly or impliedly. Thus, the statutory mechanism available in the Act of 2006 while creating the Food Safety Authority fixes its responsibility to provide the necessary inputs to the State Governments as also to the Central Government to have effective Food Safety measures. It also makes adequate provisions for enforcing the Act, casting duty to administer the Act primarily on the Food Safety Officers.

5. A Notification dated 11.01.2023, issued by the Food Safety and Standards Authority of India, has been brought to our notice whereby Food Safety and Standards (Food Products Standards and Food Additives) First Amendment Regulations, 2023 have been promulgated. By the said amendment, certain provisions have been incorporated in the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011, including the

provisions for regulating the limit of formaldehyde. In terms of Regulation 5 of the amending Regulation 2023, after sub-regulation 2.6.1 of the Regulations of 2011, Regulation 2.6.2 has been added, which reads as follows:

**“2.6.2. Limit of Formaldehyde –**

(1) The amount of naturally occurring formaldehyde shall not exceed the limit prescribed in the column (2) for different species of fish as mentioned in the table given below:-

<b>Group &amp; Species</b>	<b>mg/kg</b> . <b>Max.</b>
<b>Group - I (Marine)</b>	
<b>All finfishes (including Barracuda, Billfishes, Bombay Duck, Bullseyes, Catfishes, Croakers, Eels, Filefishes and Puffers, Flat fishes, Goatfishes, Groupers (Rock Cods), Half Beaks and Full Beaks, Horse Mackerel, Leather Jacket (Queen Fish), Mackerel, Mullets, Other Carangids, Other Clupeoids, Anchovies, Other Perches, Pigface Breams, Pomfrets, Ribbon Fish, Sardines, Seer Fishes/Spanish Mackerel, Silver Bellies/Biddies, Snappers, Tarpons, Threadfin Breams, Threadfins, Tuna and Bonitos, White Fish and any other commercial varieties), elasmobranchs, crustaceans and molluscs except those under Group III &amp; IV</b>	4.0
<b>Group — II (Freshwater Origin)</b>	
<b>Finfishes (including Indian Major Carps, Minor Carps, Exotic Carps, Freshwater Catfishes, Snakeheads/Murrels, Tilapia, Trout and all other freshwater fin fishes), crustaceans and molluscans</b>	

<b>Group – III (Marine)</b>	
Lizard fishes and any other marine fishes not covered under Group I	8.0
<b>Group — IV (Frozen Stored marine fish products)</b>	
All frozen stored marine fish products	100"

6. Thus, the Food Safety and Standards of naturally occurring formaldehyde in various kinds of fish is now provided. This implies that if formalin or formaldehyde is found to be in excess of these limits, then the same could be said to be a result of the addition of formalin or formaldehyde to such fish and not due to natural reasons. Formalin or formaldehyde is not permitted to be added to fish for its preservation or for any other reason.

7. Once the Authority has made the aforesaid prescription, it is for the enforcement Officers, especially the Director of Food and Safety in the State Governments and the Food Safety Officer, to ensure that the said limit of formaldehyde in fish is monitored strictly and effectively. The usual defence that the formalin or formaldehyde detected was naturally present or that there was no addition would no longer be countenanced where the limit prescribed and determined above is exceeded.

8. Thus, having regard to the Notification dated 11.01.2023, promulgated by the Food Safety and Standard Authority of India, we dispose of this Writ Petition with a direction to the Director of Food Safety, State of Goa and also to the State Authority as well as the Food Safety Officers to strictly ensure that there is no addition of formaldehyde or formalin to the fish and where the limits exceed those prescribed above, strict action in accordance with the law is forthwith taken to prevent such harmful practices. We, further, direct that the authorities of the State Government shall take appropriate measures as may be permissible under the

*provisions of the Food Safety and Standards Act, 2006, and the rules made thereunder, including the penal provisions to ensure that the amount of formaldehyde in various kinds of fishes does not exceed the prescribed limit.*

9. *The Director of Food Safety, State of Goa, shall accordingly issue a circular to all concerned, including the Food Safety Officers, to take appropriate measures and evolve a mechanism to enforce the standards prescribed by the notification dated 11.01.2023. The Director of Food Safety shall issue a circular in this regard within three weeks. The circular must clarify that it is completely impermissible to add or use formalin or formaldehyde to fish and that the limits of naturally occurring formalin or formaldehyde do not exceed the standards prescribed above. The learned Additional Government Advocate is requested to appraise the authorities concerned of this order forthwith.*

10. *With the above observations and directions, PIL Writ Petition Nos.26, 29 and 31 of 2018 and PIL Writ Petition No.8/2019 are disposed of.”*

6. Accordingly, the first issue raised in this Writ Petition stands answered in terms of the above order dated 09.01.2024.

7. As regards the second issue, Mr Pereira, learned Senior Counsel for the petitioner, referred to the Goa, Daman and Diu Town and Country Planning Act, 1974 (TCP Act) to submit that none of the provisions contained therein empower the SGPDA to construct and operate a wholesale fish market. He submitted that SGPDA, being a creature of the TCP Act, must exercise powers and function within the four corners of the TCP Act. He submitted that since the TCP Act

neither empowers nor declares the setting up of a wholesale fish market operation as one of its functions, the SGPDA is acting ultra vires by proceeding with the construction and operation of a wholesale fish market at Margao, Goa.

**8.** Mr Pereira, without prejudice to the generality of the above contention, referred to Section 22 of the TCP Act and submitted that none of the functions listed in the said provision apply to the construction and operation of a wholesale fish market. He submitted that even the rules framed under the TCP Act do not empower the SGPDA to construct and operate the wholesale fish market. He, therefore, submitted that the action of SGPDA is ultra vires its powers and dehors the functions assigned to SGPDA in the TCP Act or the Rules made thereunder.

**9.** Mr Pereira, with the leave of the Court, relied upon the decision of the National Green Tribunal in *S. Ranjith Fernando V/s. Chairman, Tamil Nadu Pollution Control Board and Ors.*<sup>1</sup> in support of his contentions. He clarified that should this Court hold that the SGPDA has the power to construct and operate a wholesale fish market, the safeguards referred to in *S. Ranjith Fernando* (supra) may be considered and imposed.

**10.** The learned Advocate General, Mr Padiyar and Mr Bhobe submitted that ample powers under the TCP Act enabled the SGPDA

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<sup>1</sup> 2020 SCC OnLine NGT 2127

to construct and operate the wholesale fish market. They submitted that such a market was nothing but an “amenity” as defined under Section (2) of the TCP Act, and further, the same also constituted “development” as defined under Section 2(10) of the TCP Act. They submitted that the TCP Act was enacted to provide for planning the development and use of rural and urban land in the State of Goa and for purposes connected therewith.

**11.** Learned Counsel for the respondents submitted that under Section 20 of the TCP Act, every Planning and Development Authority was a corporate body with perpetual succession and a common seal with power to acquire, hold and dispose of movable and immovable property and contract. They submitted that the power to hold property would include setting up, constructing, and operating a market on such property. Learned Advocate General relied on *Kandiyil Vania Pudukudi Ramunni Kurup and Ors. V/s. The Panchayat Board, Badagara and Ors.*<sup>2</sup> to point out how the legal position in India and England deferred on the issue of the owner of the property establishing the market in his or her property.

**12.** The learned Counsel for the respondents referred to provisions of Section 22(e) of the TCP Act to submit that one of the functions of the SGPDA was to prepare schemes of development and to undertake their implementation. They pointed out that the expression “schemes of development” ought not to be narrowly construed, but the same

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<sup>2</sup> AIR 1954 (MAD) 754

should be broadly construed to include the establishment of an amenity like a wholesale fish market and the operation of such an amenity.

**13.** Learned Counsel submitted that Planning and Development Authorities were tasked with planning and development activities, which would include providing amenities for civic welfare. They submitted that the provisions of the TCP Act have to be broadly construed, and expressions like planning, development, and amenities could certainly include the establishment of the wholesale fish market for the benefit of the people. Accordingly, they submitted that the SGPDA was not acting ultra vires, and this petition should be dismissed.

**14.** On due consideration of the rival contentions, we agree with the respondents that the SGPDA was not acting ultra vires by constructing a wholesale fish market and operating the same at Margao - Goa. The provisions of the TCP Act have to be considered holistically, and upon such holistic consideration, we cannot say that the SGPDA, by constructing a wholesale fish market or by operating the same itself, was acting ultra vires its powers or involved in functions that were never assigned by the legislature to a Planning and Development Authority. Our reasons for this conclusion are discussed hereafter.

**15.** The TCP Act was enacted to provide for planning the development and use of rural and urban land in the State of Goa and for the purposes connected therewith.

**16.** Section 2(2) of the TCP Act defines “amenities”, in the following terms:

*“2(2) “amenities” include the utilities such as roads and streets, open spaces, parks, recreational grounds, playgrounds, water and electric supply, street lighting, sewerage, drainage, public works, and other utilities, services and conveniences.”*

**17.** Sections 2(7) and 2(8) define “commerce” and “commercial use” in the following terms:

*“2(7) “commerce” means the carrying on of any trade, business or profession, sale or exchange of goods of any type whatsoever, and includes the running of:-*

*(i) with a view to making profit, hospitals or nursing homes exceeding twenty-five beds; and*

*(ii) hotels, restaurants and boarding houses not attached to educational institutions; and the expression “commercial” shall be construed accordingly.*

*2(8) “commercial use” includes the use of any land or building or part thereof for purposes of commerce or for storage of goods, or as an office, whether attached to any industry or otherwise.”*

**18.** Section 2(10) defines “development” in the following terms:

*“2(10) “development” with its grammatical variations and cognate expressions, means the carrying out of building, engineering, or other operations in, on, over or under, land or the making of any material change in any building or land, or in the use of any building or land, and includes subdivision of any land.”*

**19.** Section 20 of the TCP Act provides for the constitution of the Planning and Development Authority. Section 20(2) of the TCP Act reads as follows:

*“20(2) Every Planning and Development Authority constituted under sub-section (1) shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable, and to contract, and shall by the said name sue and be sued.”*

**20.** Section 22 of the TCP Act is concerned with the functions and powers of the Planning and Development Authority. The same reads as under:

*“22. Functions and powers of Planning and Development Authorities – Subject to the provisions of this Act and the rules framed thereunder and subject to any directions which the Government may give, the functions of every Planning and Development Authority shall be –*

- (a) to prepare an Existing Land Use Map;*
  - (b) to prepare an outline Development Plan;*
  - (c) to prepare a Comprehensive Development Plan;*
  - (d) to prepare and prescribe uses of land within its area; and*
  - (e) to prepare schemes of development and undertake their implementation,*
- and for these purposes, it may carry out or cause to be carried out, surveys of the planning area and prepare report or reports of such surveys, and to perform such other functions as may be prescribed...”*

**21.** Besides, as noted above, even the provisions of Section 22 of the TCP Act provide that the functions and powers referred to therein are subject to the provisions of the TCP Act and the rules made thereunder

and also subject to any directions that the Government may give to a Planning and Development Authority. Section 22 also refers to the functions and powers of a Planning and Development Authority, including the preparation of an Existing Land Use Map, Outline Development Plan, and Comprehensive Development Plan and the preparation and prescription of uses of land within its area. This is in addition to preparing schemes of development and undertaking their implementation. This Section also confers incidental powers like carrying out or causing to be carried out surveys of planning area and preparation of reports or reports of such surveys.

**22.** All the above powers and functions will have to be broadly construed. Merely because the provisions of the TCP Act do not refer specifically to the construction of a wholesale fish market or its operation by the PDA, we cannot conclude that such a power was not vested in a PDA or that such an exercise would attract the doctrine of ultra vires. With regard to the definition of the expression “amenities” or “development”, we cannot say that providing a wholesale fish market that caters to the needs of the entire population of Goa and even beyond would amount to an ultra vires exercise.

**23.** Section 22(e) refers to schemes of development and their implementation. Chapter VIII of the TCP Act deals with “Town Planning Schemes”. While the Town Planning Schemes prepared under Chapter VIII would be included within the expression “schemes of development”, it is not as if every scheme of development is the same as

a Town Planning Scheme contemplated by Chapter VIII of the TCP Act. The expression “Schemes of Development” is a broader concept and would include providing amenities like gardens, parking places, markets, playgrounds, etc.

**24.** There is no dispute that the property where the wholesale fish market is being constructed belongs to the SGPDA. Also, there is no dispute that this property is included in the zone which admits the construction of such a wholesale market. Thus, under the plans prepared under the TCP Act, the property in question can be used for constructing a wholesale market and its operations.

**25.** In terms of Section 32 of the TCP Act, a Comprehensive Development Plan shall indicate, define and provide for, *inter alia*, amenities, services and utilities. The wholesale market is definitely an amenity, service and utility. Therefore, considering the objective behind the enactment of the TCP Act, the definitions of some of the expressions referred to above, the provisions of the TCP Act referred to above and the principle that PDA's functions have to be broadly and not pedantically construed, the contention about SGPDA's action of constructing a wholesale market and operating the same being ultra vires will have to be rejected. On the holistic consideration of the provisions of the TCP Act, we cannot agree with the petitioner that the SGPDA has no power to construct a wholesale fish market or operate the same. So also, we cannot accept the contention that the construction of a wholesale fish market and its operation is not one of

the functions that the SGPDA is competent to perform, given the statutory framework of the TCP Act.

**26.** Accordingly, the second issue will have to be answered by holding that the construction of a wholesale fish market and its operation is within the competence of the SGPDA.

**27.** As regards the third issue, the SGPDA was not quite categorical on the issue of whether it requires permission from the Margao Municipal Council and the Authorities under the Food Safety and Standards Act, 2006 to operate the wholesale fish market.

**28.** Mr Padiyar, the learned Counsel for MMC, referred to the provisions of Section 252 of the Municipalities Act, 1968, which read as follows:

**“252. Private markets, etc., not to be held without licence.— No person shall use or allow to be used any place in any municipal area —**

- (i) as a private market; or
- (ii) as a private slaughter-house; or
- (iii) for the storage or sale of flesh or fish or animals or birds intended for human food,

*except under and in accordance with the conditions of a licence granted in accordance with the provisions of the bye-laws made in this behalf:*

*Provided that no licence under this section shall be required for selling or storing of flesh or fish contained in hermatically sealed receptacles.*

(2) Whoever uses or allows to be used any place for any of the purposes specified in sub-section (1), without a licence, or in contravention of any conditions subject to which a licence may have been granted under sub-section (1) shall, on conviction, be punished with fine which may extend to [five thousand rupees] if the contravention is of clause (i) or (ii) of sub-section (1) and with fine which may extend to [one thousand rupees] if the contravention is of clause (iii) of that sub-section, and in the case of continuing contravention of the said clause (i) or (ii) with further fine of [one hundred rupees], and of the said clause (iii) with further fine of [fifty rupees], for every day after the first during which such contravention continues.”

**29.** Mr Padiyar submitted that in terms of Section 252 of the Municipalities Act, the SGPDA will have to obtain a licence from the MMC for the operation of the wholesale fish market.

**30.** The provisions of Section 252 of the Municipalities Act are quite clear in that they provide that no person shall use or allow to be used any place for any municipal area as a private market or as a private slaughter-house or for the storage or sale of flesh or fish or animals or birds intended for human food except under and in accordance with the conditions of a licence granted in accordance with the provisions of the bye-laws made in this behalf. Provided that no licence under this section shall be required for selling or storing flesh or fish contained in hermetically sealed receptacles. Section 252(2) provides for prosecution and penalties in case of breach of the provisions of Section 252(1) of the Municipalities Act.

**31.** The provisions of Section 252 of the Municipalities Act will have to be construed in conjunction with the definition of “municipal market” or “municipal slaughter-house” as defined under Section 2(28) and the definition of “private market” as defined under Section 2(40) of the Municipalities Act.

**32.** This definition provides that the “municipal market” or a “municipal slaughter-house” means a market or a slaughterhouse which belongs to or is maintained by the Council. The market which the SGPDA is constructing and intends to operate would not answer the definition of “municipal market” because the same neither belongs to the MMC nor, at least at present, the same is intended to be maintained by the MMC. Again, the provisions of Section 252 of the Municipalities Act will have to be construed in conjunction with A private market, which means a market which is not a municipal market. It does not include a market established for the purposes of any law for the time being in force regulating the marketing of agricultural and other produce in such markets. No argument was advanced before us that the SGPDA market is being established for the purposes of any law for the time being in force regulating the marketing of agricultural and other produce in such markets. Therefore, the proposed SGPDA market would be a “private market” as defined under Section 2(40) of the Municipalities Act.

**33.** As noted earlier, Section 252 of the Municipalities Act applies to a private market and also for the storage or sale of flesh or, fish or

animals or birds intended for human food. Thus, in terms of Section 252, read with Section 2(28) and 2(40) of the Municipalities Act, the contention that the SGPDA can operate a wholesale fish market without obtaining any licence from the MMC will have to be rejected. The SGPDA will have to obtain the necessary licence in terms of Section 252 of the Municipalities Act from the MMC before it can operate the wholesale fish market.

**34.** Similarly, if fish is intended to be sold from the wholesale fish market, the Food Safety and Standards Act, 2006 provisions would apply. In terms of this Act, necessary permissions, licences, etc., will have to be obtained by those selling fish, unless they are exempted under the said Act itself.

**35.** Mr Lawande referred to the provisions of the Food Safety and Standards Act, 2006, the definitions contained therein and the provisions requiring permissions/licences and submitted that those involved in the sale of fish to be governed by the provisions of the 2006 Act unless they are exempted on account of the turnover limits, etc. The provisions of Section 31 of the Food Safety and Standards Act, 2006, are instructive in this regard.

**36.** The FSS Act was in fact enacted to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption

and for matters connected therewith or incidental thereto. The statement of objects and reasons also makes it clear that the bill which ultimately became FSS Act is contemporary, comprehensive and intends to ensure better consumer safety through Food Safety Management Systems and setting standards based on science and transparency as also to meet the dynamic requirements of Indian Food Trade and Industry and International trade.

**37.** The authorities under the State are therefore required to be conscious of guiding principles set out in Section 18 of the FSS Act and the object and reasons for the enactment of FSS Act. In cases where there are reasonable grounds to suspect that food may present a risk to human health, then, depending on the nature, seriousness and extent of that risk, the Authorities under the FSS Act are duty-bound to take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

**38.** Section 18 of the Food Safety and Standards Act deals with the general principles to be followed by the Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of the Food Safety and Standards Act. The principles that shall guide such Authorities have also been set out in Section 18 of the Food Safety and Standards Act.

**39.** Section 31 of the FSS Act provides that no person shall commence or carry on any food business except under a license. There is an exemption granted to petty manufacturer, with which we are not concerned in the present matter. Section provides that any person desirous to commence or carry on any food business shall make an application for the grant of a license to the designated officer in such manner containing such particulars and fees as may be specified by regulations. Section 2(n) of the FSS Act defines “food business” to mean any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients. Similarly, Section 2(o) defines “food business operator” in relation to food business to mean a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder. Section 2(za) defines “license” to mean a license granted under Section 31 of the FSS Act.

**40.** The decision in *S. Ranjith Fernando* (supra) is not relevant at present. The wholesale market construction is yet to be completed and the wholesale operations are yet to be commenced. We are sure that the SGPDA will take all measures to ensure that there is no pollution due to the operation of the wholesale fish market and further hygienic conditions are maintained in such a market.

**41.** *S. Ranjith Fernando* (supra) was a case where the allegation was about the illegal operation of a fish market in Chintadripet. The allegations were that there was no consent to operate obtained from the Pollution Control Board and solid and liquid waste was being disposed of or discharged by the fish vendors operating their shops in such a fish market. There was an allegation of using chemicals such as nitrogen, phosphorous, and potassium, which were impacting water and soil quality because of untreated discharge. All these issues do not arise in this petition at least at this stage. We are hopeful that SGPDA will be alive to all legal requirements and take all measures to ensure that the operations at this market give no cause for pollution or health hazards.

**42.** For all the above reasons, we hold that the SGPDA will have to obtain a licence/permission as contemplated by Section 252 of the Municipalities Act from the MMC, and the provisions of the Food Safety and Standards Act will apply to the operation of the wholesale fish market at Margao. Since a private market is proposed to be established and operated, all permissions contemplated by the law would be necessary unless those laws exempt such permissions.

**43.** Accordingly, even the third issue will have to be answered in the above terms.

**44.** This petition is accordingly disposed of by holding that the SGPDA cannot be said to be acting beyond its legal competence or ultra vires in the construction and operation of a wholesale fish market at Margao. However, for operating the wholesale fish market, the SGPDA

will have to obtain a licence from the MMC under Section 252 of the Municipalities Act, and further, the provisions of the Food Safety and Standards Act, 2006 will apply to the operation of the wholesale fish market at Margao – Goa. The issue of formalin stands answered by our order dated 09.01.2024 in PIL Writ Petition No.26/2019 and connected matters.

**45.** The rule is disposed of in the above terms.

**46.** There shall be no order for costs.

**VALMIKI SA MENEZES, J.**

**M. S. SONAK, J.**