

IN THE COURT OF SH. AJAY KUMAR, ADJUDICATING OFFICER/  
ADDITIONAL DISTRICT MAGISTRATE  
(SOUTH-EAST)  
GOVT. OF NCT OF DELHI, OLD GARGI COLLEGE BUILDING LAJPAT  
NAGAR-IV NEW DELHI-110024



No. 09/F.S.Cases/ADM/SE/2014/949-950

Dated: 19/9/14

IN THE MATTER OF :

1. FOOD SAFETY OFFICER  
DEPARTMENT OF FOOD SAFETY,  
Govt. of NCT of Delhi,  
A-20, Lawrence Road Indl. Area,  
Delhi-110035.

..... Complainant

V/s

2. Sh. Subhash Chander M/s Subhash Store Shop No-25 Defence Colony Market New  
Delhi-110024  
R/o 25 IInd Floor Defence Colony Market New Delhi-110024

..... Food Business Operator-Cum Proprietor

**ORDER**

*(Under Rule 3.1.1.(3) of Food Safety & Standards Rules, 2011)*

An application under Rules 3.1.1. (3) of FSS Rules, 2011 was filed in this court by the Food Safety Officer, Sh. Ranjeet Singh for adjudication of the offence for violation of Section 26(2)(ii) of the Food Safety and Standards Act, 2006 read with Section 3(1)(zx)( C ) (i) of the FSS Act, 2006 and also violated Regulation No.2.2.2.1, 2.2.2.4, 2.2.2.6, 2.2.2.7, 2.2.2.8, 2.2.2.9, 2.2.2.10 and 2.3.2.1(a) of the Food Safety & Standard of the Food Safety and Standards Act, 2006 which is punishable under Section 52 of the Food Safety and Standard Act, 2006. .

In this application, it was alleged that On 07/10/2013 at about 06.00 pm, Food Safety Officer, Sh. Ranjeet Singh purchased a sample of "Sabudana (Sago)" an article of food for analysis from Sh Subhash Chander Gupta S/o Late Sh Gopi Ram FBO -Cum-Proprietoros M/s Subhash Store , Shop No-25 , Defence Colony Market New Delhi-110024 where Sh. Subhash Chander FBO-cum-Propertier was found storing the said food article for sale for human consumption. The sample of Sabudana was lying in sealed packets bearing stickered label only. Before taking the sample, efforts were made to join the sample proceedings by him but none came forward then on his request Sh. Siya Ram FA joined as a witness to the sample proceedings.

One counterpart of the sample bearing Designated Officer Code No. 10/DO-07/3944 in intact condition in a sealed packet along with a copy of memo in form VI and another copy of



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o in Form VI in a sealed cover were sent separately to the Food Analyst on 08/10/2013. Food Business Operator did not request to send the fourth counterpart of the sample for analysis from an NABL Accredited Laboratory under Rule 2.4.5 of Food Safety and Standard Rule, 2011. The Food Analyst analysed the sample and found the sample misbranded. for analysis under the provision of Food Safety & Standards Act/Rules/Regulations. The Food Analyst analyzed the sample and reported vide his report No. FSS/1068/2013 dated 21/10/2013 that "the sample is misbranded because there is violation of Regulation No.2.2.2.1, 2.2.2.4, 2.2.2.6, 2.2.2.7, 2.2.2.8, 2.2.2.9, 2.2.2.10 and 2.3.2.1 of The Food Safety & Standards (Packaging & Labelling) Regulation, 2011"

On receipt of application from the Food Safety Officer, it was inferred that an inquiry was necessary to look into the charges leveled against the Food Business Operator and its supplier/Manufactures. So the Food Business Operator and its Supplier/manufacturer was served notice under section 46(4)FSS Act,2006 read with rule 2.4.6 of Food Safety & Standards Rules, 2011 alongwith copy of the Report of Food Analyst for giving an opportunity to file an appeal against the report of the Food Analyst.

During the hearing, Sh. Ranjeet Singh, FSO present for petitioner. Sh. Subhash Chander, M/s Subhash Store Shop No-25 Defence Colony Market New Delhi-110024 present for respondents. The respondents submitted that the lifted sample was lying in sealed packets bearing stickered label only for sale for human consumption only. The respondents accepted the mistake. The petitioner has asked for action u/s 52 of Food Safety & Standard Act, 2006 considering misbranding as extraneous matter. The respondents have accepted the mistake.

From the above said facts and circumstances and documents placed on records, it is proved that respondents - M/s Subhash Store has committed offence. Respondents accepted the charges levied on him by the Applicant/Food Safety Officer. As such the Respondents are liable to penalty of fine under Section 52 of the Food Safety & Standard Act, 2006.

While adjudging the quantum of penalty due regard u/s 49 of Food Safety and Standard Act, 2006 of the following have been taken:

1. The amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,
2. The amount of the loss caused or likely to cause to any person as a result of the contravention,
3. The repetitive nature of the contravention,
4. Whether the contravention is without his knowledge.

Also while deciding the matter Analyst Report is perused which reveals that "the sample is misbranded because there is violation of Regulation No.2.2.2.1, 2.2.2.4, 2.2.2.6, 2.2.2.7, 2.2.2.8, 2.2.2.9, 2.2.2.10 and 2.3.2.1 of The Food Safety & Standards (Packaging &



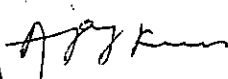
...ing) Regulation, 2011” The respondents submitted that the Sabudana was Substandard. The petitioner did not object this submission of the respondents. The respondents submitted that their first mistake and they promise to not repeat such act. In this case, the amount of gain to the seller and amount of loss to the customer can't be quantified, however, they have committed offence for sale of misbranded item having false declaration.


**ORDER:-**

After taking into consideration of all the facts and circumstances of the case and material on record, I find it is a fit case to impose penalty in terms of Rule 3.1.2(1) of food safety and standards Rules, 2011 and, therefore, impose penalty of Rs.45,000 /- (Rs. Fourty five thousand only) which shall be paid by the respondent. The Respondent shall deposit the said penalty in this court in the form of a Crossed Demand Draft on National Bank in favour of “Adjudicating Officer, District South-East” payable at Delhi within fifteen days of receipt of this order.

In terms of provision of Rule 3.1.2 (5) of Food Safety and Standards Rule, 2011 one copy of this order is served to Respondents and Food Safety Officer.

Pronounced in open court given under my hand and the seal of the seal of this court on day 19<sup>th</sup> September, 2014.

  
(Ajay Kumar)  
Adjudicating Officer/ADM (South-East)



**Copy to**

1. Food Safety Officer Department of Food Safety ,Govt. of NCT of Delhi,  
A-20, Lawrence Road Indl. Area,Delhi-110035.

..... Complainant

2. Sh. Subhash Chander M/s Subhash Store Shop No-25 Defence Colony Market New  
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