



IN THE COURT OF SH. AJAY KUMAR, ADJUDICATING OFFICER/  
ADDITIONAL DISTRICT MAGISTRATE  
(SOUTH-EAST)

GOVT. OF NCT OF DELHI, M.B. ROAD, SAKET, NEW DELHI-68



No.05/F.S.Cases/ADM/SE/2013/483-486

Dated: 5/7/13

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

1. Sh. Shankar Lal Acharya S/o sh. Vijay Kumar Acharya  
M/s. Haldi Ram Marketing Pvt.Ltd.  
45, Ring Road, Lajpat Nagar, New Delhi-110024

R/o Badli Choupal, Ali Village, Badarpur,  
New Delhi-110044.

..... Food Business Operator-Cum  
Manager of Accused No. 3

2. Sh. Kamal Jain S/o Shri Moola Chand Jain  
M/s. Haldi Ram Marketing Pvt. Ltd.

R/o B-45, Ring Road Lajpat Nagar  
New Delhi -110024

.... Nominee of Accused No. 3

3. M/s. Haldi Ram Marketing Pvt. Ltd.  
45, Ring Road, Lajpat Nagar, New Delhi-110024

Having Regd. Office at  
B-1/H-3, Mohan Cooperative Industrial Estate,  
New Delhi-110044

..... Company

**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. V.P. S Chaudhary 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)(i) of the said Act which is punishable under section 54 of the Food Safety and Standards Act, 2006.

*Ajay Kumar*

In this application, it was alleged that a sample consisted of 2 kgs of Kaju Roll was taken by the Food Safety Officer, Sh. Suniti Kumar Gupta from Sh. Shankar Lal Acharya, Food Business Operator (FBO) on 2/8/2012 at 3.30 pm for analysis under the provisions of Food Safety & Standards Act/Rules/Regulations.

The Food Analyst analyzed the sample and reported vide his report No.PFA/Enf/1013/2012 dated 13/8/12 that **“the sample contain extraneous matter viz. added synthetic colour in contravention of Section 3(1)(i) of The Food Safety & Standards Act, 2006.”**

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. V.P.S. Chaudhary, FSO present for petitioner. Sh. Shanker Lal Acharya, Respondent No.1, Sh. S.K. Jain, Asstt. Manager (Admn.) & Mr. Kamal Jain, nominee of the Company, M/s Haldiram Marketing P.Ltd. present for respondents. The respondents submitted that the lifted sample was loose on which there was no written composition. While the sample was being lifted then the composition was asked verbally by F.S.O. and by mistake/forgetness, they forgot to mention edible colour within the permissible limit as one of the ingredients. Hence, this was the mistake done on the spot but the sample was having good quality. The respondents accepted the mistake. The petitioner has asked for action u/s 54 of Food Safety & Standard Act, 2006 considering added synthetic colour 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 Shanker Lal Acharya, M/s Haldi Ram Marketing P.Ltd., Sh. Kamal Jain, M/s Haldi Ram Marketing P.Ltd. and M/s Haldi Ram Marketing 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.

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• 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 contain extraneous matter viz. added synthetic colour in contravention of Section 3(1)(1) of The Food Safety & Standards Act, 2006.”** The respondents submitted that they forgot to mention edible colours within permissible as one of the ingredients. The petitioner did not object this submission of the respondents.

**ORDER:-**

1. After taking into consideration of all the facts and circumstances of the case and material or 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.31,000/- (Rs. Thirty One Thousand only) which shall be paid by the respondents. The Respondents 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 two weeks of receipt of this order.
2. 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 5<sup>th</sup> July, 2013.

  
(Ajay Kumar)

Adjudicating Officer/ADM (South-East)