

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 1034 OF 2019

IN

PUBLIC INTEREST LITIGATION WP NO. 29 OF 2018

FOOD SAFETY AND STANDARDS
AUTHORITY OF INDIA, THR. ITS CHIEF
EXECUTIVE OFFICER DR. ANIL C.
MISHRA.,

... Applicant

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY, GOVT. OF GOA AND 3
ORS.,

... Respondents

Mr. Dharmanand R. Vernekar, Advocate for the Applicant.

Mr. Devidas J. Pangam, Advocate General with Mr. Prashil
Arolkar, Additional Government Advocate for Respondent Nos.
1 to 3.

Coram:- M. S. SONAK &
C. V. BHADANG, JJ.

Date:- 28th November, 2019

P.C.

This is an application for recall of our order dated 06.11.2019. This application has been taken up by and on behalf of the Food Safety and Standards Authority of India (FSSAI), through Dr. A.C. Mishra, Joint Director, FSSAI.

2. One of the reasons given for recall is that the Counsel appearing for FSSAI could not remain present on the date on which the order was made. The record indicates that Advocate

Vernekar has been appearing in the matter, but there was no Vakalatnama filed by him and therefore, his name was not indicated in the cause list. The matter was listed on the board and since, there was no Vakalatnama filed by Advocate Vernekar, the name of the Advocate was not reflecting in the cause list.

Secondly, the applicant proceeds on the basis of total misinterpretation of the earlier orders made by us, interpreting that directions were issued to the FSSAI only to submit their progress report from time to time, whereas the earlier orders made by us clearly directs the FSSAI to complete the work of determination of the standards assigned to them at the earliest and to submit the progress report from time to time.

3. Mr. Vernekar, the learned Counsel for the applicant has taken us to the previous orders made by us. From the orders, it appears that we have issued directions to the FSSAI to specify the standards expeditiously. At the same time, we had realised that this exercise may take some time, as such, no fixed outer limit was fixed. However, from the tenor of our orders, it is very clear that we expected the FSSAI to complete this exercise expeditiously.

4. Mr. Pereira, the learned Senior Counsel who appears for one of the petitioner in the batch of public interest litigations,

pointed out that even the progress reports filed on record indicate that there is no serious progress undertaken in the matter and all the progress reports filed are virtually the same with some minor variations. In any case, all this cannot be a ground to recall our order, by which, the Executive Officer of FSSAI is required to be present in this Court, since, we found that there is no compliance with our earlier orders and to take the matter to its logical end.

5. Merely because the Officers were directed to remain present in this Court in person, it appears that instructions were received to their Advocate to apply for recall of the order. This is not at all a correct approach. The application is misconceived and the same is dismissed. We are in fact of the opinion that costs have to be imposed on FSSAI, but, since we realise that the costs will be paid by the public exchequer, we refrain from imposing costs to the applicant. However, in future, if we find that the FSSAI or its Officers are not serious in complying with our orders, then we will be constrained to impose costs, which will be recovered personally from such Officer.

6. Before dismissing this application, we may add that the FSSAI, considering the nature of its activities and also considering the importance of the issue was expected to co-operate in the matter. Instead, the entire approach appears is

to only cite reasons for non compliance. Accordingly, this Civil Miscellaneous Application is dismissed.

C. V. BHADANG, J.

M. S. SONAK, J.

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