

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18483 of 2019

Smokeless Tobacco Association (a registered Association) under the societies Registration Act, 1860 having registered office at D-29, Jagpura Extension New Delhi, represented by its authorized signatory, Sanjay Bechan, aged about 52 years, Male, son of Sri Basudeo Prasad, resident of H-177, R.K. Vihar, Plot No. 29, I.P. Extension, P.s.- Madhu Vihar, Distt.- New Delhi-110092

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Commissioner of Food Safety Department of Health, Govt. of Bihar, Patna
3. The Director General of Police Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the Respondent/s	:	Mr. Birju Prasad, GP-13
		Mr. Ravi Kumar, A.C. to G.P. 13
		Mr. Ajit Anand, A.C. to G.P. 13

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 08-12-2022 Petitioner has prayed for the following relief(s):-

- (i) The power to declare any food item injurious to health and prescribing the standards and limits of additives as ingredients in any item of food lies exclusively with the Food Authority and that too with the previous approval of the Central Government and after previous publication, by Notification and such



power does not lie with the Commissioner of Food Safety who is simply a delegatee under the Food Safety and Standards Act, 2006.

- (ii) The Food Safety and Standards Act, 2006 and the Regulation made thereunder does not prohibit absolutely the use of Magnesium Carbonate as an ingredient / Food additive in the Food products.
- (iii) The prohibitory order bearing Memo No. FSC / 22 / 2012 / 1092 (15) dated 30.08.2019 (Annexure 1) issued by the Commissioner of Food Safety (Respondent NO. 2) does not operate on the Manufacturing and other allied activities in Paan Masala which is standardized food item under Regulation 2.11.5 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011; and



- (iv) The respondents may be restrained from taking any coercive action during the pendency of the writ application against the petitioners for dealing and transporting in the Pan Masala of whatsoever brand name in terms of and so long as the same is within the provisions of the Food Safety and Standards Act and also the law laid down by the Hon'ble Apex Court in the case of Godawat Pan Masala IP Ltd. Vrs. The Union of India and others reported in (2004) 7 SCC 68 and a Division Bench of this Hon'ble Court in the case of Onkar Agency Vrs. The State of Bihar and others FSSAI reported in 2016 (3) PLJR 667.

Learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to file a fresh petition, on the same and subsequent cause of action.

Permission granted with liberty as prayed for.

As and when any such petition is filed, the same shall be processed and listed on priority basis.



The instant petition stands disposed of as withdrawn
with the liberty aforesaid.

Interlocutory Application(s), if any, shall stand
disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

P.K.P./Amrendra

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