

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18836 of 2019

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Vishwajeet Kumar Chaurasiya Son of Ramashankar Chaurasiya, resident of
Near Teachers training School Rambagh, Chakwasu, Musahri, P.S.-
Mithanpura, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner of Food Safety, Department of Health, Government of Bihar, Patna.
3. The Director General of Police, Bihar.
4. Union of India through Food Safety and Standards Authority of India, FDA Bhawan, Kotla Road, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Shama Sinha, Advocate Mr. Dharmeshwar Mishra, Advocate Mr. Sanjay Kumar Srivastava, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, GP-5 Dr. K.N. Singh, ASG Mrs. Punam Kumari Singh, Advocate

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

(Per: HONOURABLE THE CHIEF JUSTICE)

5 08-12-2022 Petitioner has prayed for the following relief(s):-

(I) The Commissioner of Food Safety who is simply a delegate under the Food Safety and Standards Act, 2006 has no power to declare any food item injurious to health and issue Prohibitory notification. 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.



(ii) The prohibitory order bearing Memo No. FSC/ 22/ 2012/1092 (15) dated 30.08.2019 (Annexure 1) and FSC/22/2012/1114/(15) dated 02.09.2019 (Annexure-1A) issued by the Commissioner of Food Safety (Respondent No. 2) does not apply to the Manufacturing/Distribution and other allied activities in Pan Masala which is a standardized food item under Regulation 2.11.5 of ***the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011***; and

(iii) The respondents may be restrained from taking any coercive action during the pendency of the writ application against the Petitioner for dealing, distribution and transporting 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. Vs. 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 Vs. FSSAI and others reported in 2016 (3) PLR 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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