

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11328 of 2023

Shiv Kumar Mittal Son of Shri Mohan Lal Mittal, Resident of Ward No 33, Godhi Tola, Durgapur, Katihar, PO and PS Katihar, Proprietor - M/S Mohanbhog, Girls School Road, Katra No. 54, Town and Dist.- Katihar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna, Old Secretariat, Bailey Road, Patna.
3. The Collector, Katihar.
4. The Adjudicating Officer - cum - Deputy Collector, Katihar (under Food Safety and Standards Act, 2006), District Collectariate, Katihar.
5. The Food Safety Officer, Katihar, District Collectariate, Katihar.
6. The Designated Officer (under Food Safety and Standards Act, 2006), District Collectariate, Katihar
7. The In Charge, Combined Food and Drug Laboratory, Department of Health, Govt. of Bihar, Agamkuan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shantanu Kumar, Adv.
For the Respondent/s	:	Mr.S. Raza Ahmad (AAG5)
		Mr. Vijay Kr. Sinha, AC to AAG5

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 02-12-2023

Heard the parties.

2. This application has been filed for quashing of the order dated 08.05.2023 passed by the Adjudicating officer, Katihar by which the Adjudicating officer, Katihar has imposed Rs. 2,00,000/- (Rupees Two Lakhs Only) on the petitioner under Sections 26(2) and 52 of Food Safety and Standards Act, 2006.

3. The contention of the petitioner is that the prosecution is time barred as under Section 77 read with Section



68 of Food Safety and Standards Act, 2006. Learned counsel for the petitioner submits that bar of one year as under Section 77 read with Section 68 of Food Safety and Standards Act, 2006 will apply in the present case also. Section 77 read with Section 68 (3) of Food Safety and Standards Act, 2006 read as follows:-

68. (3) The Adjudicating Officer shall have the powers of a Civil Court and-

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a Court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

77. Time limit for prosecutions.- Notwithstanding anything contained in this Act, no Court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:

Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of upto three years.

This clause provides that no Court shall take cognizance of an offence under the Act after the expiry of the period of one year from the date of commission of an offence unless the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of upto three years. (Notes on Clauses).

4. It is an admitted fact that the Final Order of the



Adjudicating authority is on 08.05.2023 whereas date of occurrence is on 02.11.2018, is barred by limitation under Section 77 of Food Safety and Standards Act, 2006. The impugned order dated 08.05.2023 passed by the Adjudicating officer, Katihar cannot be sustained and the same is quashed.

(Sandeep Kumar, J)

Harsh/-

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