



W.P.(MD)No.21172 of 2018

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED : 28.11.2024

CORAM:

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**W.P.(MD)No.21172 of 2018**

**and**

**W.M.P(MD)No.19014 of 2018**

G.Kannan

...Petitioner

-Vs-

1.The Designated Officer,  
Food Safety and Drug Administration Department,  
Dindigul – 624 001

2.The Director,  
FSSAI Referral Laboratory,  
Food Testing Laboratory,  
Indian Institute of Food Processing Technology,  
Thanjavur – 600 018.

...Respondents

**Prayer :** Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned Analysis Report of the 2nd respondent dated 16/07/2018 in Certificate No.F-040/18-19 and quash the same as illegal.

For Petitioner : Mr.K.Krishna

For Respondents : Mr.D.Gandhi Raj  
Special Government Pleader  
for RR1 & 2



W.P.(MD)No.21172 of 2018

WEB COPY

### **ORDER**

This writ petition has been filed challenging the analysis report, dated 16.07.2018, on the file of the second respondent.

2.The petitioner is the manufacturer of the drinking water. While being so, the samples of water bottles were collected by the first respondent on 18.08.2017. It was sent to Food Analyst of Madurai. Subsequently, Food Analyst has submitted a report dated 23.11.2017 stating that out of eleven parameters, two parameters exceeded the permissible limit under regulation 2.10.8 of Food Safety and Standards Regulations, 2011. Therefore, The samples were declared as unsafe. Thereafter, an appeal was filed before the second respondent by sending another samples for analysis as contemplated under section Act 2.4.6(1) of the Food and Standards Rules, 2011. The report was sent by the second respondent on 16.07.2018.

3.The learned Counsel appearing for the writ petitioner would submit that the second respondent has analysed the samples after expiry. The water bottles were manufactured on 16.08.2017 and the analysis was conducted after a period of six months. He further submits that first Food analysis report was sent even after a period of 14 days. The Section 46(3) of the Food Safety and



W.P.(MD)No.21172 of 2018

Standards Act, 2006 provides only fourteen days to submit the analysis report from the date of receipt of the samples whereas the food analysis has submitted a report only on 23.11.2017. Therefore, the analysis report submitted by the second respondent cannot be sustained.

4.The learned Counsel appearing for the writ petitioner has relied upon the judgment of this Court in CrI.O.P(MD)No.18098 of 2018, dated 05.01.2012. This Court has quashed the proceedings in C.C.No.302 of 2018 which is in respect of the water pockets have seized from the petitioner's retail vendor. On perusal of the order passed by this Court reveals that the food analysis was done for a period of 94 days and the report was sent after the lapse of 94 days from the date of collection of samples. It got expired within 30 days. Therefore, the entire proceedings were quashed. But in the case on hand, the expiry of the water bottles is six months. Before expiry, the food analysis had conducted the analysis and submitted a report. Therefore, the above said order is not helpful to the case on hand.

5.The respondent has filed counter and the submission made by the learned Special Government Pleader appearing for the respondents reveals that the samples of water bottles were taken from the petitioner on 18.08.2017.



W.P.(MD)No.21172 of 2018

However, it was sent to the food analysis. The Food analysis report was sent within a period of 14 days as contemplated under Section 46 (3) of the Food Safety and Standards Act, 2006 and as such, he made a request to the first respondent seeking further time to submit a report by its communication dated 23.11.2017 due to vacancies of Senior Analyst and other staffs. Thereafter, the Food analyst has conducted an enquiry and submit a report on 23.11.2017. On the objection raised by the petitioner, once again the samples were sent to the second respondent for his report. Though the second respondent has submitted a report on 16.08.2017, it does not mean that the Food Analyser was conducted after expiry of the water bottles, that is after February 2018.

6.On perusal of the report submitted by the second respondent dated 16.07.2018 reveals that the samples were in tact and it was in condition fit for analysis and has been analysed on 18.04.2018 and completed on 21.05.2018. The analysis report says that the samples drinking water in plastic container and obtained the samples as Higher such as TDS(Total Dissolved Solids), Lead, Arsenic, Antimony, Mercury and Selenium, even than the prescribed standard. Therefore, they declared as unsafe.



W.P.(MD)No.21172 of 2018

7. Therefore, the report submitted by the second respondent has also confirmed the analysis report submitted by the food analysis dated 23.11.2017.

Therefore, there is absolutely no violation to analyse the water bottles by the food analyst as well as the second respondent. The procedures were followed in accordance with law and submitted a report and on the strength of the report, the first respondent has accorded sanction for classification and accordingly, the petitioner is facing prosecution in S.T.C.No.1848 of 2021 on the file of the Judicial Magistrate No.III, Dindigul.

8. In view of the above, this Court finds no infirmity or illegality in the order passed by the second respondent. Hence, this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

**28.11.2024**

NCC : Yes/No  
Index : Yes/No  
Internet: Yes/No  
RJR



WEB COPY



W.P.(MD)No.21172 of 2018

**G.K.ILANTHIRAIYAN. J,**

RJR

To

1.The Designated Officer,  
Food Safety and Drug Administration Department,  
Dindigul – 624 001

2.The Director,  
FSSAI Referral Laboratory,  
Food Testing Laboratory,  
Indian Institute of Food Processing Technology,  
Thanjavur – 600 018.

**W.P.(MD)No.21172 of 2018**

**28.11.2024**