

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12568 OF 2025

Amogh Industries Through its
Constituted Attorney Mohammed
Jameel MP

... Petitioner

V/s.

Union of India and Ors.

... Respondents

Mr. Anupam Dighe a/w. Ms. Chandni Tanna and Ms. Renita Alex
i/b. India Law Alliance, Advocate for the Petitioner's

Mr. Vedant Bende i/b. Mr. Mandar Limaye, Advocate for the
Respondent No.1 – UOI

Mr. Asif I. Patel, Addl.G.P. a/w. Mrs. R.A. Salunkhe, AGP, for the
Respondent Nos.2 to 5 - State

**CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.**

DATE : 8TH OCTOBER, 2025.

P.C. :-

1. Heard learned counsel for the parties.
2. The only substantive relief pressed for by the learned Counsel for the Petitioner is, prayer Clause - c (ii). The said prayer Clause – c(ii) reads thus :-

(c) That this Hon'ble Court be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction directing the Respondent, their servants, subordinates and agents :

(ii) to release the Petitioner's goods seized by Respondent No.2 from Vehicles bearing Nos. RJ-14-GT-3496 and RJ-14-GR-5917.

3. According to the Petitioner, the Petitioner's vehicle was seized on its way from Karnataka to Delhi. The truck/vehicle was carrying Areca Nuts. It is the Petitioner's case that the seizure of the said goods by the respondent No.2 was illegal and without

jurisdiction and not as per the procedure contemplated under the Food Safety and Standards Act, 2006 ('FSS Act, 2006') and the Food Safety and Standards Rules, 2011 ('FSS Rules, 2011').

4. Learned counsel for the petitioner further submitted that the respondent No.2 has not followed the procedural requirement as mandated under the Act and Rules as stated aforesaid. Thus the petitioner seeks release of his goods .

5. Learned counsel for the Petitioner further submits that the goods are neither adulterated nor unsafe for human consumption and the reason for detaining / seizure of the goods is only because they were 'substandard'.

6. Learned counsel relied on the relevant provisions to show that being 'unsafe for human consumption' and 'sub standard' are different.

7. Learned AGP opposed the petition. He submitted that the adjudicating proceeding is pending. He further submits that since the goods in question were found to be substandard, they came to be seized. He submits that for substandard goods the penalty which can be imposed is Rs.5,00,000/-.

8. At this stage, learned counsel for the Petitioner states that the Petitioner without prejudice to its rights, is ready to deposit Rs.5,00,000/- with the adjudicating authority, so that these goods can be released.

9. Admittedly the goods in question are perishable in nature.

Section 3(zx) defines the term 'sub standard' as under :-

“(zx) "sub-standard", an article of food shall be deemed to be sub-standard if it does not meet the specified standards but not so as to render the article of food unsafe”

10. The prosecution for 'substandard' food is set out in Section - 51 i.e. Penalty of Rs.5,00,000/-.

11. The Food Safety and Standard Authority of India issued communication to the Commissioner of Food Safety of all States/Union Territories and all Regional Directors FSSAI dated 6th December 2022. The direction in the said circular is reproduced as under :-

“Reference is invited to the Section 38(1) (c) of the FSS Act, 2006, which empowers the Food Safety Officer to seize any article of food which appears to be in contravention of this Act or the regulations made thereunder.

- 2. It has been brought to the notice of this office the power to seize articles of food is being resorted to by the FSOs even in case of minor violations and without any reasonable grounds to believe that the said article of food is adulterated or unsafe. It has been further noted that multiple sampling of the same lot but in different pack form is also done to complete the sampling targets by the FSOs.*
- 3. In this regard, it is requested that the Food Safety Officers and Designated Officers under your respective jurisdictions may be advised to ensure due diligence before exercising such powers and strictly adhere to the procedural requirements as stipulated under the Act/Rules so as to avoid unnecessary complaints/litigation by the FBOs/Associations. Further, any incidence of arbitrary/unreasonable seizures brought to your notice should be dealt in a stringent and effective*

manner at your level, apart from ensuring regular trainings of all the FSOs and Dos on the procedural aspects of sampling and legal proceedings under the FSS Act, 2006.

This issues with the approval of Competent Authority.”

12. The FSL report received on 24th June 2025 with respect to the goods i.e. Areca Nuts is at Exhibit ‘H’ of the Petition.

13. From the said FSL report, it appears that the moisture is well within the limit i.e. the prescribed standard as per food safety and standard regulations and provisions of the Act. Similarly the damage by moulds and insects is also well within the prescribed standards. What is in excess is, that the nuts were damaged. The percentage was more than the permissible limits. Permissible limit is 12%, whereas the damaged nuts found were 19.60%. In view of this report, it is stated that the goods in question are substandard. Nowhere in the FSL report, it is stated that said food was unsafe for human consumption. The food in question is a perishable item and thus we deem it appropriate to direct the authorities to release the goods seized by the

respondent No.2 from vehicle bearing Nos. RJ-14-GT-3496 and RJ-14-GR-5917, at the earliest, as soon as the petitioner deposits a sum of Rs.5,00,000/- with the adjudicating authority, without prejudice to his rights and contentions.

14. We make it clear, that the deposit made by the petitioner is without prejudice to their rights before the adjudicating authority. Needless to state that we keep open all contention of parties on merits.

15. Needless to state that the respondent authorities to follow procedure as contemplated under the statute.

16. In light of the above order, nothing survives for further consideration in this Writ Petition and the Petition is accordingly disposed of.

Parties to act upon the authenticated copy of the order.

(SANDESH D. PATIL, J.) (REVATI MOHITE DERE, J.)

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