



W.P(MD)No.22555 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22555 of 2025

&

W.M.P.(MD)Nos.17666, 17667 & 17669 of 2025

B.Kanchana

... Petitioner

Vs.

1.The Commissioner of Food Safety
Office of the Commissioner of Food Safety and
Drug Administration,
5th Floor, DMS Office Building,
359, Anna Salai,
DMS Campus, Teynampet,
Chennai-600006.

2.The District Collector,
Tuticorin District,
Tuticorin-628 101.

3.The Designated Officer,
Tamil Nadu Food Safety and
Drug Administration Department,
Collectorate,
Tuticorin-628 101.

4.The Food Safety Officer,
Tuticorin Corporation-II (596),
Food Safety Department,
Joint Director of Agriculture Office Complex,
Collectorate, Tuticorin-628 101.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records, pertaining to the impugned notice issued by the 3rd respondent dated 15.07.2025 in Na.Ka.No.3814/Aa3/2025 and the interim suspension order issued by the third respondent dated 15.07.2025 in Na.Ka.No.3814/Aa3/2025 and quash the same and consequently direct the respondents to drop all further proceedings based on illegal sampling done by the 4th respondent and emanating out of the analysis report No.Acct-1222/2025-2026 D.Dis.No. 5083/A4/FSSA/2025 dated 08.07.2025.

(Prayer is amended vide order dated 27.11.2025 in W.M.P.(MD)No.27292 of 2025 by GRSJ)

For Petitioner : Mr.Raguvaran Gopalan
for Mr.G.Mohankumar

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard both sides.

2.The writ petitioner is running a cafe in Tuticorin. The petitioner had procured a product known as 'Kashmiri Pink Tea' through online and introduced the said beverage to his customers. On 23.06.2025, the fourth respondent herein inspected the cafe. Samples were seized. They were also sent for



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analysis in Form VII. The analysis report was adverse to the writ petitioner.

The petitioner was served with a copy of the report and asked to exercise the option of appealing to the referral lab. This communication dated 15.07.2025 issued by the designated officer has been put to challenge on the ground that the sampling itself was illegal. On the very same day, the petitioner's license was also suspended. Copy of the suspension order was served during the pendency of these proceedings. Hence, the petitioner filed an amendment petition challenging the suspension order also. The suspension order was passed under Section 32(3) r/w 2.1.8(4) of Food Safety and Standards Rules, 2011.

3.The first question that calls for consideration is whether the suspension order is bad in law. Section 32(2) of the Food Safety and Standards Act, 2006 enables the authority to suspend the license of any food business operator. But this power is contained in the proviso to Section 32(3) of the Act. Section 32(1) of the Act empowers the designated officer to issue improvement notice to the food business operator when he has reasonable ground to believe that the food business operator has failed to comply with the statutory regulations. The designated officer can call upon the noticee to take appropriate remedial measures. As per sub-section 2 of Section 32, if the food business operator



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fails to comply with the improvement notice, his license may be suspended. As per sub-section 3 of Section 32, if the food business operator still fails to comply with the improvement notice, after giving the licensee an opportunity to show cause, the designated officer may cancel the license. Proviso to sub-section 3 of Section 32 reads that the designated officer may suspend any license forthwith in the interest of public health for reasons to be recorded in writing. Though the power of suspension is thus contained both in sub-section 2 as well as the proviso to sub-section 3 of Section 32, I am not able to infer that the proviso to sub-section 3 confers a greater power on the designated officer. This is because of the expression “still fails to comply with the improvement notice” found in sub-section 3. Oxford Advanced Learner's Dictionary defines “still” as 'continuing until a particular point in time and not finishing'. In the present context, it means that the food business operator had not set right the deficiencies pointed out in the improvement notice which necessitates passing the cancellation order. A proviso can never be divorced from the main provision. Thus, upon the food business operator not complying with the demand set out in the improvement notice, the designated officer has a choice before him. He can suspend the license forthwith or he can issue one more notice and then cancel the license.



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4.Regulation 2.1.8(4) of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 reads as follows :

“Notwithstanding anything contained in these Regulations, the Registering or Licensing Authority may suspend or cancel any registration or license forthwith in the interest of public health for reasons to be recorded in writing”

The constitutional validity of the aforesaid regulation was challenged in *Association of the Traders Carrying the Food v. UOI (2015 SCC OnLine Bom 4811)*. The Hon'ble Division Bench of the Bombay High Court repelled the challenge. The power of suspension is conferred on the designated officer under the aforesaid Regulation also. Thus, there are three provisions which confer the power to suspend. The Hon'ble Bombay High Court had taken the view that Regulation 2.1.8(4) is a mere reiteration of the proviso to Section 32. I am not able to subscribe to this reasoning. To me, Regulation 2.1.8(4) confers an independent power to suspend and the exercise of this power need not be preceded by any improvement notice. But this power cannot be invoked for the asking. Reasons must be expressly spelt out in the suspension order itself. Since the parent Act speaks of issuing an improvement notice in the first instance and only thereafter suspending the license in the event of non-compliance, the designated officer cannot lightly resort to the power of suspension set out in the regulation. He has to apply his mind fully and this



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application of mind should be evident on the very face of it. He must show as to why the license has to be suspended straightaway. He must indicate strong reasons for dispensing with the procedural safeguards set out in Section 32 of the Act. There could be situations where the breach of the food regulations is egregious and is of a high degree. Serious consequences could have ensued as a result of the violations committed by the operator. Imperatives of public health may demand immediate action. If such situations are present, certainly, the license can be forthwith suspended and there is no need to issue any improvement notice. Unless this threshold is met, the suspension order under Regulation 2.1.8(4) of the Regulations will be vulnerable. I have taken the view that under the aforesaid Regulation also, the power of suspension can be traced because the parent Act also confers the power to suspend.

5. Judged in the light of the principles laid down above, the suspension order has to fail. It is accordingly set aside. The validity of the order dated 15.07.2025 giving option to the petitioner to appeal to the referral lab has not been tested by me. The petitioner has given a representation to the third respondent in this regard on 24.07.2025 under Section 36 of the Act. The third respondent is directed to pass a speaking order on the said representation as expeditiously as possible.



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6.The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
rmi/SKM

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