



**273 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.36380-2025((O&M)
Date of Decision: 16.04.2026**

M/s Singla Traders

....Petitioner

VS.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

**Present: Mr. Parminder Sandhu, Advocate
Mr. Nitin Gupta, Advocate
for the petitioner**

Mr. Deepak Vashisht, D.A.G, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India has made multiple prayers, however, during the course of hearing confined its prayer to release of plant and machinery seized by respondent authorities.

2. The respondent by order dated 14.11.2025 has seized food processing machinery lying in the petitioner's premises. The machines have been seized on the ground that there is order of Deputy Commissioner, Kaithal.

3. Learned counsel for the petitioner submits that as per Section 33 of The Food Safety and Standards Act, 2006 (for short "2006 Act") only

Court has power to prohibit use of process or treatment or any equipment for



the purposes of any food business. Food Safety Officer has no power to seize plant and machinery. The respondent has power to draw sample, search the premises, seize food articles and launch prosecution but has no power to seize machines used to manufacture food articles.

4. On being asked, learned State counsel, on instructions from Dr. Pawan Chahal, Food Safety Officer, Kaithal submitted that petitioner is a habitual offender and is manufacturing sub-standard food articles. Its licence stands cancelled and prosecution has been filed against proprietor of the business entity. The order of seizing machinery was passed on the direction of Deputy Commissioner. The petitioner was repeating the same offence, thus, under compelled circumstances it was decided to seize its machinery.

5. Heard the arguments and perused the record.

6. From the perusal of record, it is evident that petitioner is engaged in the business of manufacturing food articles. Its activities are governed by 2006 Act apart from other applicable laws. As per Section 33 of 2006 Act, if any food business operator is convicted of an offence, the Court may prohibit (i) use of process or treatment for the purpose of food business; (ii) its premises or equipments which are used for food business. Section 34 of 2006 Act provides that Designated Officer, if is satisfied that health risk condition exists, may after a notice served on the food business operator impose prohibitions. Section 38 of 2006 Act provides that Food Safety Officer may draw samples and seize food articles which appear to be in contravention of 2006 Act or regulations made thereunder. Section 41 of 2006 Act empowers Food Safety Officer to search any business premises



and seize articles of food or adulterant. Section 42 of 2006 Act provides that Food Safety Officer may launch prosecution. Sections 33, 34, 38, 41 and 42 of 2006 Act are reproduced as below:-

“33. Prohibition orders-(1) If-

(a) any food business operator is convicted of an offence under this Act; and

(b) the court by or before which he is so convicted is satisfied that the health risk exists with respect to that food business,

the court after giving the food business operator an opportunity of being heard, may by an order, impose the following prohibitions, namely:-

(i) a prohibition on the use of the process or treatment for the purposes of the food business;

(ii) a prohibition on the use of the premises or equipment for the purposes of the food business or any other food business of the same class or description,

(iii) a prohibition on the use of the premises or equipment for the purposes of any food business.

(2) The court may, on being satisfied that it is necessary so to do, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(3) As soon as practicable after the making of an order under sub-section (1) or sub-section (2) (in this Act referred to as a "prohibition order"), the concerned Food Safety Officer shall-

(a) serve a copy of the order on the food business operator; and

(b) in the case of an order under sub-section (1), affix a copy of the order at a conspicuous place on such premises used for the purposes of the food business,

and any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine which may extend to three lakh rupees.



(4) The concerned Food Safety Officer shall with the approval of the Designated Officer issue a certificate to the effect that the food business operator has taken sufficient measures justifying lifting of the prohibition order, within seven days of his being satisfied on an application made by the food business operator for such a certificate or the said officer shall-

(a) determine, as soon as is reasonably practicable and in any event within fourteen days, whether or not he is so satisfied; and

(b) if he determines that he is not so satisfied, give notice to the food business operator of the reasons for that determination.

(5) A prohibition order shall cease to have effect upon the court being satisfied, on an application made by the food business operator not less than six months after the prohibition order has been passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

(6) The court shall give a direction on an application by the food business operator, if the court thinks it proper so to do having regard to all the circumstances of the case, including in particular, the conduct of the food business operator since the making of the order, but no such application shall be entertained if it is not made-

(a) within six months after the making of the prohibition order, or

(b) within three months after the making by the food business operator of a previous application for such a direction.

Explanation.-For the purpose of this section,-

(i) any reference above shall apply in relation to a manager of a food business as it applies in relation to the food business operator; and any reference to the food business operator of the business, or to the food business operator, shall be construed accordingly;

(ii) "manager", in relation to a food business, means any person who is entrusted by the food business operator with the day-to-day running of the business, or any part of the business.



34. Emergency prohibition notices and orders.-(1) If the Designated Officer is satisfied that the health risk condition exists with respect to any food business, he may, after a notice served on the food business operator (in this Act referred to as an "emergency prohibition notice"), apply to the Commissioner of Food Safety for imposing the prohibition.

(2) If the Commissioner of Food Safety is satisfied, on the application of such an officer, that the health risk condition exists with respect to any food business, he shall, by an order, impose the prohibition.

(3) The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business of his intention to apply for the order.

(4) As soon as practicable after the making of an emergency prohibition order, the Designated Officer shall require the Food Safety Officer to-

(a) serve a copy of the order on the food business operator of the business; or

(b) affix a copy of the order at a conspicuous place on such premises used for the purposes of that business;

and any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two lakh rupees.

(5) An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures for justifying the lifting of such order.

(6) The Designated Officer shall issue a certificate under sub-section (5) within seven days of an application by the food business operator for such a certificate and on his being not satisfied, the said officer shall give notice to the food business operator within a period of ten days indicating the reasons for such decision.



38. Powers of Food Safety Officer.-(1) *The Food Safety Officer may-*

(a) take a sample-

(i) of any food, or any substance, which appears to him to be intended for sale, or to have been sold for human consumption; or

(ii) of any article of food or substance which is found by him on or in any such premises;

which he has reason to believe that it may be required as evidence in proceedings under any of the provisions of this Act or of the regulations or orders made thereunder; or

(b) seize any article of food which appears to the Food Safety Officer to be in contravention of this Act or the regulations made thereunder; and

(c) keep it in the safe custody of the food business operator such article of food after taking a sample;

and in both cases send the same for analysis to a Food Analyst for the local area within which such sample has been taken:

Provided that where the Food Safety Officer keeps such article in the safe custody of the food business operator, he may require the food business operator to execute a bond for a sum of money equal to the value of such article with one or more sureties as the Food Safety Officer deems fit and the food business operator shall execute the bond accordingly.

(2) The Food Safety Officer may enter and inspect any place where the article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food, or exposed or exhibited for sale and where any adulterant is manufactured or kept, and take samples of such articles of food or adulterant for analysis.

(3) Where any sample is taken, its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) Where any article of food seized under clause (b) of sub-section (1) is of a perishable nature and the Food Safety Officer is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the Food Safety Officer may, after giving notice



in writing to the food business operator; cause the same to be destroyed.

(5) The Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this section, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

(6) Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such and for the possession of which he is unable to account to the satisfaction of the Food Safety Officer and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the Food Safety Officer and a sample of such adulterant submitted for analysis to a Food Analyst:

Provided that no such books of account or other documents shall be seized by the Food Safety Officer except with the previous approval of the authority to which he is subordinate.

(7) Where the Food Safety Officer takes any action under clause (a) of sub-section (1) or sub-section (2) or sub-section (4) or sub-section (6), he shall, call one or more persons to be present at the time when such action is taken and take his or their signatures.

(8) Where any books of account or other documents are seized under sub-section (6), the Food Safety Officer shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts there from as certified by that person in such manner as may be prescribed by the Central Government have been taken:

Provided that where such person refuses to so certify and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof and extracts there from as certified by the court have been taken.

(9) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of



adulteration shall be on the person from whose possession such adulterant was seized.

(10) The Commissioner of Food Safety may from time to time issue guidelines with regard to exercise of powers of the Food Safety Officer; which shall be binding:

Provided that the powers of such Food Safety Officer may also be revoked for a specified period by the Commissioner of Food Safety.

41. Power of search, seizure, investigation, prosecution and procedure thereof.-(1) *Notwithstanding anything contained in sub-section (2) of section 31, the Food Safety Officer may search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food and shall thereafter inform the Designated Officer of the actions taken by him in writing:*

Provided that no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.

(2) Save as in this Act otherwise expressly provided, provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search, seizure, summon, investigation and prosecution, shall apply, as far as may be, to all action taken by the Food Safety Officer under this Act.

42. Procedure for launching prosecution.-(1) *The Food Safety Officer shall be responsible for inspection of food business, drawing samples and sending them to Food Analyst for analysis.*

(2) The Food Analyst after receiving the sample from the Food Safety Officer shall analyse the sample and send the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.

(3) The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations



within fourteen days to the Commissioner of Food Safety for sanctioning prosecution.

(4) The Commissioner of Food Safety shall, if he so deems fit, decide, within the period prescribed by the Central Government, as per the gravity of offence, whether the matter be referred to,-

(a) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or

(b) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a Court of ordinary jurisdiction.

(5) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Safety Officer who shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40.”

7. From the conjoint reading of afore-cited provisions, it is manifest that these are penal and draconian in nature. Seizure of premises or plant and machinery entails depriving a citizen from his right of business and trade guaranteed by Article 19(1)(g) of the Constitution of India. Thus, those provisions cannot be read liberally. Those need to be interpreted strictly.

8. In the case in hand, Food Safety Officer drew samples for testing. Licence of the petitioner has already been cancelled means it cannot carry out business activities. Prosecution stands launched means proprietor is facing criminal proceedings. In other words, the authorities have already taken action as permissible by Sections 38, 41, 42 of 2006 Act. It is Court which has power to prohibit use of equipments/business premises or prohibit



the food business operator to manufacture/process food articles. Court can exercise said power after conviction. The Food Safety Officer is not empowered to seize plant and machinery. In emergency, the Designated Officer after following procedure prescribed under Section 34 of 2006 Act has power to impose prohibitions.

9. In the instant case, Designated Officer has acted upon proceedings of District Grievance Redressal Committee. Extracts of the proceedings read as :-

“Proceedings of the District Grievance Redressal Committee meeting held on November 14, 2025, at 12:15 PM in the Auditorium, R.K.S.D. College, Ambala Road, Kaithal, under the chairmanship of the Honourable Chairman, Shri Anil Vij, Minister of Power, Transport and Labour, Government of Haryana.

xxxx		xxxx	xxxx
<i>Sr. No.</i>	<i>Details of the Complainant Name and address</i>	<i>Details of the complaint</i>	<i>Investigating Officer</i>
xxx			
3.	<i>Krishna Kumar, Sarpanch and others, Village Kangthali, District Kaithal 2449/Complaint Date: 29.09.2025</i>	<i>It has been noted that the complainants from village Kangthali have stated in their complaint that some individuals are carrying out illegal activities on Pabsar 9050522890) and are Road (Mobile. No. preparing adulterated milk. is This dairy is producing milk with adulterated and harmful substances, which detrimental to the health of the general</i>	<i>1.Additional Deputy Commissioner , Kaithal 2.Food Safety District Officer, Kaithal</i>



		<i>public. This activity not only endangers people's lives but also violates government regulations and increases the risk of diseases like cancer. Therefore, the complainant has demanded that the said dairy be raided and immediately shut down, and action be taken against the culprits.</i> <i>The complainant was present. After hearing both parties and considering the matter, chairman instructed the District Food Safety Officer, Kaithal, to ensure that the factory in question is sealed immediately and that samples are collected from the factory and sent to Shri Ram Laboratory, New Delhi, for testing, after which further necessary action should be taken. The complaint was ordered to be kept pending.</i>	
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10. Food Safety Officer vide letter dated 14.11.2025 intimated higher authorities that he has no power to seize machinery under 2006 Act. Letter dated 14.11.2025 is reproduced as under:-

“Subject: Regarding permission to seal the premises of Singla Traders, Pabsar Road, Kangthali FSSAI License No.10823009000026



Reference: Grievance Committee Meeting Kaithal Complaint No. 6750 Dated 29.09.2025 of O/o Deputy Commissioner Kaithal.
Respected Sir,

Kindly refer above cited subject and letter in reference.

As the above mentioned complaint is discussed today on 14.11.2025 in the Grievance Committee Meeting held at Hall of RKSD College Ambala Road in the Chairmanship of Hon'ble Transport and Power Minister Sh. Anil Vij and it is ordered by Worthy Chairman of committee to seal the premises of Singla Traders, Pabsar Road, Kangthali District Kaithal. I hereby want to let you know that as per FSS, Act 2006 section 38 describing the powers of Food Safety Officer there is no power conferred on me to seal the premises of any food business operator. But as many times samples of the above said premises are declared by lab as substandard and unsafe it is a must in public safety to seal the premises of said premises. So, I request you to kindly delegate me powers to seal the above said premises in public interest.”

11. On the basis of aforesaid proceedings dated 14.11.2025, the Food Safety Officer, Kaithal issued impugned notice (Annexure P-6) which reads as:-

“Subject: Notice regarding seizure of all operation machineries related to manufacturing of milk and milk products.
In compliance of the orders of Deputy Commissioner Kaithal received via letter no. FSO/KTL/2025/127-130 dated 14.11.2025 all the operational machineries listed below are being used for manufacturing of milk and milk products which are intended for public sale by you are hereby seized to stop all manufacturing processes in concern of public safety.

<i>Sr. No.</i>	<i>Name of Machinery</i>	<i>Capacity</i>	<i>No. of units</i>	<i>Approximate value</i>
<i>1.</i>	<i>Cream Separator</i>	<i>10000 LPH</i>	<i>1</i>	<i>200000</i>
<i>2.</i>	<i>Butter Making Machine</i>	<i>900 LPH</i>	<i>1</i>	<i>120000</i>
<i>3.</i>	<i>Motors/pumps</i>	<i>5KL and 3 KL</i>	<i>3</i>	<i>50000</i>



4.	Pastuerizer	10000 LPH	1	300000
5.	Chiller with pump	10000 LPH	1	100000
6.	Storage tanks	60000	7	950000
Total			14	1720000

All the machineries have been sealed and are left in custody of Rakesh Kumar s/o Mohan Lal person present at the time of sampling and seizure at Singla Traders situated at Pabsar Road, Kangthali, Kaithal with the instruction not to tamper with the seals till further orders.”

12. Machinery has been seized by Food Safety Officer who has no power to seize plant and machinery. The respondent is claiming that machines have been seized on the direction of Deputy Commissioner, Kaithal. Concededly, there is non-compliance of procedure prescribed in 2006 Act. Power to seize food articles does not include power to seize plant and machinery. There are specific provisions which empower Court and authorities to stop business activities or seize plant and machinery. Food Safety Officer is not empowered to seize plant and machinery, thus, impugned seizure is bad in the eye of law.

13. At the fag end of the dictation, learned State counsel pointed out Rule 2.1.3(4) of the Food Safety & Standards Rules, 2011 (for short “2011 Rules”) which empowers Food Safety Officer to seal premises. Said provision does not vindicate action of the respondent. It is a case of seizing machinery without authority as well as without following procedure contemplated in the Act and Rules including aforesaid Rule. The respondent has not sealed premises but seized machinery. As per Rule 2.1.3(4) of 2011 Rules, it at the most could be for investigation. This is not a pleaded case of the respondents.



14. In the wake of above discussion and findings, the impugned order/notice dated 14.11.2025 (Annexure P-6) whereby plant and machinery have been seized is hereby set aside.
15. It is made clear that this Court has not expressed any opinion on quality or standard of the food articles manufactured by petitioner. This order shall not affect any proceeding with respect to cancellation of license or prosecution launched by respondent.
16. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

16.04.2026
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No