

**FOOD SAFETY APPELLATE TRIBUNAL
JAIPUR, RAJASTHAN**

APPEAL NO.FA/0037/2017

Mahadev Saini (Proprietor) S/o Shri Surajnarayan Saini, M/s
Tirupati Aqua Industries, Plot No.1, Ganesh Vihar, Sector35,
Pratap Nagar, Sanganer, Jaipur

--APPELLANT

Versus

1. State of Rajasthan through Food Safety Officer Ratan Lal
Verma, Chief Medical and Health Officer, Jaipur Zone

--RESPONDENT

2. Jorawar Singh (Chemist) S/o Shri Badri Narayan, M/s
Tirupati Aqua Industries, Plot No.1, Ganesh Vihar Sector
35, Pratap Nagar, Sanganer, Jaipur

--PROFORMA RESPONDENT

Present :-

Shri Mayank Gupta, Advocate for Appellant
Shri V.D. Gathala, Advocate for Respondent

JUDGMENT

Date – 26.07.2017

This appeal is preferred by the appellant under Section 70 of the Food Safety and Standards Act 2006 (hereinafter referred as 'Act of 2006') against the order dated 22.03.2017 passed by Adjudicating Officer/ Additional District Magistrate, Jaipur City East, Jaipur in Case No.96/2016 in exercise of powers under Section 68 (2) of the Act of 2006; whereby, a consolidated penalty of Rs.40000/- was imposed against appellant and proforma respondent no.2.

2. Food Safety Officer Jaipur took sample of packaged drinking water (Tirupati Aqua) from the appellant.
3. Sample was sent for analysis. As per report (Ex.2) of Food Analyst, Rajasthan Jaipur, sample was found misbranded; because, it does not conform to the Regulation 2.4.5 (36) of the Food Safety & Standards (Packaging & Labeling) Regulations 2011 (hereinafter referred as 'Regulation of 2011') .
4. Heard learned counsels of the parties.

5. As per regulation 2.4.5(36) of Regulation of 2011, it is provided that one time usable plastic bottles of packaged drinking water shall carry the following declaration "CRUSH THE BOTTLE AFTER USE".
6. Whereas, on the bottles used by the appellant for packaged drinking water, it was mentioned on the label that "KINDLY CRUSH THE BOTTLE AFTER USE".
7. Use of word "Kindly" is objectionable in view of the public analyst and the respondent no.1. As per report and impugned order, this use of word "Kindly" makes the packaged drinking water misbranded.
8. This appeal deserves to be accepted; because, the use of word "Kindly" does not change the meaning of "crush the bottle after use". There is sufficient compliance of the Regulation of 2011.
9. There is no force in the argument of learned government advocate Shri V.D.Gathala that addition of word "kindly" before "crush the bottle after use" indicates a request only. But crush the bottle after use is simply an instruction; because, non observance of this instruction does not attract any penalty against the consumer of the packaged drinking water.
10. Appellant has discontinued the use of word "kindly" in their further packing of packaged drinking water.
11. Before parting with this order, this tribunal would like to advise learned Adjudicating Officer to write the order separately. Final order should always be written separately, not on the order sheet of the file.
12. Appeal against the order of learned Adjudicating Officer & Additional District Magistrate, Jaipur City East, Jaipur dated 22.03.2017 passed in Case No.96/2016 is accepted. The Impugned order dated 22.03.2017 passed by learned Adjudicating Officer Jaipur City East, Jaipur is hereby quashed.
13. Registrar to provide a certified copy of this order to the appellant without any cost.
14. Pronounced on 26.07.2017.

(Umesh Kumar Sharma)
Presiding Officer