

## FOOD SAFETY APPELLATE TRIBUNAL JAIPUR, RAJASTHAN

### **APPEAL NO.FA/0020/2017**

1. Ram Singh Gurjar S/o Shri Gyarsi Lal Gurjar (Seller)
2. Gyarsi Lal Gurjar (Owner)  
M/s Shriram Oil Mill, Near Bhomiya Ji Mandir, Taskola Road, Pawta, Tehsil Kotputali, Distt. Jaipur and R/o Dhani Rajoda Rampura, Village Rampura, Via Panditpura, Post Pawta, Tehsil Kotputali, Distt. Jaipur

--APPELLANTS

Versus

Food Safety Officer (Shyam Sunder), Office of Joint Director,  
Medical & Health Services, Jaipur Zone, Jaipur

--RESPONDENT

### **APPEAL NO.FA/0021/2017**

1. Ram Singh Gurjar S/o Shri Gyarsi Lal Gurjar (Seller)
2. Gyarsi Lal Gurjar (Owner)  
M/s Shriram Oil Mill, Near Bhomiya Ji Mandir, Taskola Road, Pawta, Tehsil Kotputali, Distt. Jaipur and R/o Dhani Rajoda Rampura, Village Rampura, Via Panditpura, Post Pawta, Tehsil Kotputali, Distt. Jaipur

--APPELLANTS

Versus

Food Safety Officer (Deepak Kumar Sindhi), Office of Joint Director, Medical & Health Services, Jaipur Zone, Jaipur

--RESPONDENT

### **APPEAL NO.FA/0022/2017**

1. Ram Singh Gurjar S/o Shri Gyarsi Lal Gurjar (Seller)
2. Gyarsi Lal Gurjar (Owner)  
M/s Shriram Oil Mill, Near Bhomiya Ji Mandir, Taskola Road, Pawta, Tehsil Kotputali, Distt. Jaipur and R/o Dhani Rajoda Rampura, Village Rampura, Via Panditpura, Post Pawta, Tehsil Kotputali, Distt. Jaipur

--APPELLANTS

Versus

Food Safety Officer (Shyam Sunder Sharma), Office of Joint Director, Medical & Health Services, Jaipur Zone, Jaipur

--RESPONDENT

**APPEAL NO.FA/0023/2017**

1. Ram Singh Gurjar S/o Shri Gyarsi Lal Gurjar (Seller)
2. Gyarsi Lal Gurjar (Owner)  
M/s Shriram Oil Mill, Near Bhomiya Ji Mandir, Taskola Road, Pawta, Tehsil Kotputali, Distt. Jaipur and R/o Dhani Rajoda Rampura, Village Rampura, Via Panditpura, Post Pawta, Tehsil Kotputali, Distt. Jaipur  
--APPELLANTS

Versus

Food Safety Officer (Ratan Lal Verma), Office of Joint Director, Medical & Health Services, Jaipur Zone, Jaipur  
--RESPONDENT

**Present :-**

Shri Vikram Yadav and Shri Keshav Agrawal, Advocates for Appellants  
Shri V.D. Gathala, Advocate for Respondent State

**JUDGMENT**

Date – 13.10.2017

- These appeals are preferred by the appellants under Section 70 of the Food Safety and Standards Act 2006 (hereinafter referred as 'Act of 2006') against the orders dated 15.03.2017 passed by Adjudicating Officer/ Additional District Magistrate, Kotputli, District Jaipur in their Case Nos.33/2016, 36/2016, 34/2016 and 35/2016, respectively, in exercise of powers under Section 68 (2) of the Food Safety and Standards Act, 2006 (hereinafter referred as 'Act of 2006').
2. Since in these appeals Food Business Operator (FBO) is one and inspection was carried out at the business place of the appellants by a team of food safety officers on 28.09.2015 at 5.30 PM, therefore, all these appeals are heard together and are disposed by a common order.
  3. It is stated that a team of Food Safety Officers comprising of S/S Shyam Sunder, Deepak Kumar Singhi and Ratan Lal Verma visited M/s Shriram Oil Mill at the given addresses in the title on 28.09.2015 at 5.30 PM.
  4. The said team purchased following food samples of edible oil-
    - (i) Double filtered mustard oil (Nandi brand)
    - (ii) Double filtered mustard oil (Jaipur brand)
    - (iii) Soyabean refined oil (Neetu brand)
    - (iv) Mustard oil (loose)

5. Food products were found substandard and misbranded; therefore, after obtaining necessary sanction, a complaint was filed against the appellants before the Adjudicating Officer, Kotputli, District Jaipur.
6. After inquiry, impugned order(s) were passed by the learned Adjudicating Officer.
7. It is stated that impugned order(s) were passed without considering the material available on record and provisions of law. Gyarsi Lal, appellant no.2 was not served any notice and no information of any kind was given to him.
8. Though other grounds have also been raised in the appeals, but after perusal of the record, I am of the view that these appeals deserve to be accepted only on this count.
9. I have carefully gone through the record. It does not reflect in the order-sheets of Case Nos.33/2016, 36/2016, 34/2016 and 35/2016, respectively, of learned Adjudicating Officer, Kotputli, District Jaipur whether notice of complaint was ever served upon appellant Gyarsi Lal.
10. Nobody has put proper appearance on behalf of appellant Gyarsi Lal. Though, it is stated in the order-sheet(s) dated 10.08.2016 that non-applicant no.1 (i.e. Ram Singh Gurjar) is present in person. It is further stated that he is also present on behalf of his father. After that all the order-sheets records presence of advocate of non-applicant. Name of non-applicant is not mentioned in any order-sheet.
11. Though reply filed by the appellants before the learned Adjudicating Officer contains two signatures alleged to be of Ram Singh and Gyarsi Lal.
12. Be that as it may, it cannot be said that Gyarsi Lal was afforded a meaningful opportunity of hearing as mandated by Section 68(2) of the Act of 2006. Therefore, impugned order is liable to be quashed.
13. Apart from this, learned Adjudicating Officer Kotputli, District Jaipur also fails to appreciate properly the objections raised by Ram Singh.

### **ORDER**

14. Therefore, without going into the merit of the case, impugned order(s) in Case Nos.33/2016, 36/2016, 34/2016 and 35/2016, respectively, passed by

learned Adjudicating Officer Kotputli, District Jaipur are hereby quashed and aforesaid cases are remanded to the learned Adjudicating Officer, Kotputli, District Jaipur for adjudication in accordance with provisions of Section 68(2) of the Act of 2006 after providing reasonable opportunity of hearing to Ram Singh and Gyarsi Lal, non-applicants.

- 14.1 Learned Adjudicating Officer, Kotputli, District Jaipur is further directed to assign cogent reasons in brief in support of any finding.
- 14.2 If on such enquiry under Section 68(2) of the Act, learned Adjudicating Officer is satisfied that non-applicants have committed the contravention of the provisions of the Act of 2006 or the Rules or the Regulations made thereunder, in that case, it is incumbent upon the Adjudicating Officer to mention in his order under Section 68 of the Act, the amount of penalty separately against each non-applicant. A consolidated penalty against all the non-applicants is impermissible under the law.
- 14.3 Needless to say, order under Section 68 of the Act of 2006 is appealable; therefore, it is incumbent upon the learned Adjudicating Officer, Kotputli, District Jaipur to pass a speaking order.
- 14.4 Appellants Ram Singh Gurjar and Gyarsi Lal Gurjar and respondent(s) shall remain present before the learned Adjudicating Officer Kotputli, District Jaipur on 31.10.2017. No separate notice shall be issued for their presence before learned Adjudicating Officer.
- 14.5 If on 31.10.2017, any of the party fails to appear before learned Adjudicating Officer, Kotputli, District Jaipur, learned Adjudicating Officer shall proceed as per law.
- 14.6 Learned Adjudicating Officer, Kotputli, District Jaipur is further directed to adjudicate the matter finally before 31.12.2017 positively.
15. Pronounced on 13.10.2017.

(Umesh Kumar Sharma)  
Presiding Officer