

24.03.2025
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Sl. No. 05
Ct. No. 28

WPA 26167 of 2024

Dabur India Limited
Versus
Union of India & ors.

Mr. Sourojit Dasgupta
Mr. A. Mukherjee
Mr. S. Prasad
Mr. P. Bose

.....for the petitioner

Ms. Vineeta Meharia, Sr. Advocate
Mr. Amit Meharia
Ms. Paramita Banerjee
Mr. Rohan Raj
Ms. Sonali Pal

..... for the respondent Nos. 2 and 3

The affidavit-of-service filed in Court today be kept on record.

The learned advocate appearing for the writ petitioner submits that the writ petitioner is aggrieved by the notice/order of prohibition dated September 19, 2024 whereby the Designated Officer under the Food Safety and Standards Act, 2006 has in exercise of his powers under Section 36 (3) (b) of the said Act of 2006 prohibited the sale of Dabur Honey (Batch No. NP5819, manufactured at M/s DABUR INDIA LIMITED (FSSAI License No. 10012031000039), 9, NSC BOSE ROAD P.O. NARENDRAPUR, KOLKATA 700103, KOLKATA MUNICIPAL CORPORATION, Kolkata, West Bengal, 700103 with immediate effect until further orders in the matter. The said prohibition order is also assailed on the ground that the same was passed without hearing the writ petitioner.

The writ petitioner further submits that the said order dated 19th September, 2024 came to be passed on same date on which the writ petitioner, upon being aggrieved by the report of the Food Safety Analyst dated 12th August, 2024, preferred an appeal before the Designated Officer under Section 46(4) of the said Act. The other grievance of the writ petitioner is that in the said appeal the writ petitioner has made a request for referring the sample for re-testing to another laboratory at Ghaziabad, which has not yet been favourably considered by the Designated Officer. It is the submission of the writ petitioner that since the first testing was done in the Kolkata laboratory and it was on the basis of such testing only that the report of Food Safety Analyst (which has been impugned in the said appeal) was prepared, it would serve no purpose to get the sample re-tested again at the same laboratory at Kolkata. The writ petitioner, therefore, requests for the sample to be re-tested at the Ghaziabad laboratory.

In response to the submissions made on behalf of the writ petitioner, the learned senior advocate appearing for the respondent Nos. 2 and 3 submits that the notice of prohibition dated 19th September, 2024 has rightly been issued. Learned senior advocate takes the Court through Sections 18(1)(g), Section 26(5) and Section 36(3)(b) of the said Act of 2006 to demonstrate that there is ample power given to the Designated Officer to issue such notice of prohibition in the interest

of public at large because the subject matter is such that it would have impact on the health of the public.

Learned senior advocate also refers to a notification dated 18th June, 2024 whereby the Executive Director (CS) has directed that if the enforcement samples are opined to be unsafe in the primary lab report then in exercise of the powers conferred under Section 36(3)(b) of the Act, the FBOS should be prohibited from selling the unsafe food products. She also submits that the said notification also refers to the power to recall the unsafe food but such power has not yet been exercised because the appeal is pending.

As regards the grievance of the writ petitioner pertaining to the retesting being done by the Ghaziabad laboratory, learned senior advocate submits that she needs to take instructions on the aspect as to whether the respondent authorities have at all taken a decision to get the sample referred to the Ghaziabad laboratory and also as to the modalities for the same.

Time is requested for the same till Thursday next.

Accordingly, let the writ petition be adjourned and listed again on Thursday, i.e., 27th March, 2025 at the top when the learned senior advocate appearing for the respondents will appear with the necessary instructions.

(Om Narayan Rai, J.)