

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
WRIT PETITION (CIVIL) NO(s). 159 OF 2012

SWAMI ACHYUTANAND TIRTH & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(With appln(s) for directions and office report)

Date: 27/02/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN  
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s)

Mr. J.C. Gupta, Sr. Adv.  
Mr. Anurag Tomar, Adv.  
Mr. Dharm Singh, Adv.  
for Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

Mr. Mohan Jain, ASG  
Mr. D.K. Thakur, Adv.  
Mr. Rabindra Kumar Mohanty, Adv.  
Mr. Prabhat Kumar, Adv.  
Mr. A. Alok Srivastava, Adv.  
Mr. M.S. Vishnu Sankar, Adv.  
Ms. Neelam Singh, Adv.  
for Mr. D.S. Mahra, Adv.

Ms. Binu Tamta, Adv.  
Ms. Seema Rao, Adv.  
Ms. Anuradha Tomar, Adv.  
For Ms. Sushma Suri, Adv.

Mr. Shankar Chillarge, Adv.  
for Mr. A.P. Mayee, Adv.

Mr. Irshad Ahmad, AAG  
Mr. Samir Ali Khan, Adv.

Mr. Yusuf, Adv.  
For M/s. Arputham Aruna & Co., Adv.

Ms. Pragati Neekhara, Adv.

Mr. Gaurav Yadav, Adv.  
Mr. Kuldip Singh, Adv. (NP)

Mr. Milind Kumar, Adv.

Mr. Manjit Singh, AAG  
Mr. Kamal Mohan Gupta, Adv.

Mr. Anip Sachthey, Adv.

Mr. Sarwesh Chauhan, Adv.  
Mr. L.S. Chauhan, Adv.

Mr. Anil Shrivastav, Adv.

Mr. V.G. Pragasam, Adv.

Mr. S.J. Aristotle, Adv.

Mr. Prabu Ramasubramanian, Adv.

Mr. Navnit Kumar, Adv.

For M/s. Corporate Law Grup

Mr. Dinesh K. Garg, Adv.

Mr. Giss Antony, Adv.

For Ms. Hemantika Wahi, Adv.

Mr. Mishra Saurabh, Adv.

Ms. Vanshaja Shukla, Adv.

Mr. Ankit Lal, Adv.

Mr. Sumit Babbar, Adv.

Mr. Shadan, Adv.

Mr. Shiv Mangal Sharma, AAG

Mr. Shrey Kapoor, Adv.

Mr. Akshat Anand, Adv.

Mr. K.V. Jagdishvaran, Adv.

Ms. G. Indira, Adv.

Ms. Praveena Gautam, Adv.

Mr. B.V. Balaram Das, Adv.

Ms. Asha Gopalan Nair, Adv.

Mr. Debasis Misra, Adv.

UPON hearing counsel the Court made the following

O R D E R

Learned counsel appearing for the State of U.P. submitted that in view of the judgment of the Division Bench of the High Court of Allahabad in Writ Petition No.8254/2010 and connected matters the State is not in a position to take any coercive steps under Sections 272 and 273 of the IPC.

Considering the gravity of the situation as well as in larger public interest it is highly necessary that Union of India should think of making appropriate amendments in the Food Safety and Standards Act, 2006, so that such type of crimes could be curbed to a large extent. The Union of India would file their response to it on or before 13.03.2014.

Considering the fact that this writ petition has a direct impact on the issue involved in Crl.A. No.476-478/2012 @ SLP (Crl.) No.9346-48/2010, let these matters may also be tagged along with this writ petition.

Learned counsel appearing for the State of Punjab would ascertain as to whether any SLP is pending against the judgment in Jatinder Kumar Jain v. State of Punjab, 2008 (2) FAC 437.

Learned counsel for the petitioner brought to our knowledge a study conducted by the Himalayan Institute of Medical Science, Jolly Grant, Dehradun (HIMS), Report of which is published in Indian Journal of Community Health, Vol.24, No.3, July 2012-Sep.2012, which indicates that the milk samples of nearby places were subjected to certain tests to ascertain adulteration. The Milk Adulteration Test Kit supplied by NICE Chemicals Pvt. Ltd., (an ISO 9001 certified Company) were chemically tested for the detection of urea, neutralizers, detergents, hydrogen peroxide, sodium chloride and presence of acidity and heat stability etc. Test report ultimately indicates that all the milk samples including double toned milk collected

from different places showed presence of urea and detergents as common adulterants. The State of Uttaranchal would take note of the study conducted by the above Institution and submit their response within two weeks. The Registry is directed to make available a copy of the affidavit filed by the VOICE Society, on 3.2.2014, to the learned counsel for the State of Uttaranchal.

We have perused the affidavit filed by the the State of Maharashtra, paragraph 8(c) of the same is extracted herein:-

"Since 05/08/2011 to 31/03/2013 I say that 1466 milk samples are taken for testing their quality and out of 1466 samples, it was found that 356 samples were not up to the standard, and 33 samples were reported unsafe as they were containing milk powder and or added sugar. No sample was reported containing adulterants like formalin, Urea and detergent."

However, an affidavit has been filed by Mr. Kamal Kumar, presently working as Assistant Director (Legal) with Food Safety and Standards Authority of India, FDA Bhawan, Kotla Road, New Delhi, along with a chart wherein, at page 133 of the compilation, he has stated that in Maharashtra during 1.4.2012 to 31.3.2013, twelve samples were tested and there was presence of urea, starch/bottling paper, glucose/sugar, caustic soda, refined white paint, detergent or shampoo etc. Further, it is also stated that from 1.4.2012 to 31.3.2013 again nine samples were tested, the samples also find the presence of the above-mentioned ingredients.

Prima facie, we find that there is conflict in the details given in both the affidavits.

Under such circumstances, we are inclined to direct the Joint Commissioner (Food), Food and Drug Administration, State of Maharashtra to file an affidavit explaining this conflict between these two affidavits giving further details. Union of India will also file a report before preparing the affidavit on or before 13.03.2014.

Post on 13.03.2014.

| (Narendra Prasad)  
| Court Master

| | (Renuka Sadana)  
| | Court Master

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