

ITEM NO.37

COURT NO.11

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(Civil) No.437/2024

3S AND OUR HEALTH SOCIETY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

FOR ADMISSION

Date : 09-04-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :

Mr. Rajiv Shankar Dvivedi, AOR

Mr. S.K. Sarkar, Adv.

Mr. Bhushan, Adv.

Mr. Rishabh Jain, Adv.

For Respondent(s) :

Mr. Brijender Chahar, A.S.G.

Mr. Sudarshan Lamba, AOR

Ms. Swarupama Chaturvedi, Adv.

Mr. Anmol Chandan, Adv.

Mr. Bhuvan Kapoor, Adv.

Mr. Vaishnav Kriti Singh, Adv.

Mr. Harsh Hiroo Gursahani, Adv.

Mr. Suhaan Mukerji, Adv.

Mr. Adarsh Kumar, Adv.

Mr. Sayandeep Pahari, Adv.

Mr. Tanmay Sinha, Adv.

For M/s. PLR Chambers And Co., AOR

UPON hearing the counsel the Court made the following

O R D E R

1. This Writ Petition filed in public interest invoking Article 32 of the Constitution seeks the following reliefs:-

(a) Issue a Writ of Mandamus or any other appropriate Writ or Directions to the Union of India for taking cognizance and issuing appropriate directions or making regulation for Front-of-Package Warning Labels on Packaged Foods;and/or

(b) Pass any other order(s) and/or direction(s), as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

2. The petitioner has appeared in-person.

3. Mr. Brijender Chahar, the learned Additional Solicitor General appears for the Union of India.

4. Today, when the matter was taken up for further hearing, the learned ASG invited our attention to the affidavit filed and duly affirmed by Joint Director, Food Safety and Standards Authority of India. The affidavit reads thus:-

"COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT No.2 & 4

That I, Perumal Karthikeyan, S/o Shri R. Perumal aged about 53 years, presently working as Joint Director, Food Safety and Standards Authority of India and having office situated at 3rd floor and 4th Floor, FDA Bhawan Kotla Road, New Delhi 110002, do hereby solemnly affirm and sincerely state as follows:

1. It is submitted that an impleadment application was filed by Food Safety and Standards Authority of India and vide Order dated 14.11.2024 the impleadment application No. 241034 of 2024 was allowed and Food Safety and Standards Authority of India (herein after refereed as 'FSSAI') was impleaded as Respondent No.4.

2. That the deponent is fully conversant with the facts and circumstances of the instant case and is duly authorised to file this affidavit, which is based on the records of this office.

3. That the deponent has read the contents of the present Writ Petition under reply and I say that the petition seeks the implementation of clear Front-of-Pack Warning Labels on packaged food products to indicate levels of sugars, salt and saturated fats.

4. That the Food Safety and Standards Authority of India (hereinafter 'Authority') is the statutory body established under Section 4 of the Food Safety and Standards Act, 2006 (hereinafter 'FSSA, 2006'), an act promulgated by the Parliament in 2006 for consolidating laws relating to food and setting science-based standards for food articles, and regulating their manufacture, storage, distribution, sale and import. The applicant is also entrusted with the function of ensuring availability of safe and wholesome food fit for human consumption and for dealing with any other matters connected therewith or incidental to food safety. The Preamble of the Act reads as under:

"An Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based

standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto."

5. That Section 16 of the FSSA, 2006 specifies the duties and functions entrusted with the aforementioned Authority. That Section 16 (1) of the FSSA, 2006 binds the FSSAI to regulate and monitor the distribution and sale of food to ensure public health and safety While, Section 16(2) empowers the Authority to set standards and guidelines in relation to food articles, specifying the system for enforcement of such standards, as well as the food labelling standards.

6. That implementation of food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods falls within the regulatory domain of FSSAI under Section 16 (2) (h) of FSS Act, 2006 and regulation namely Food Safety and Standards (Labelling and Display) Regulations, 2020 which was notified on 17.11.2020.

7. It is submitted that FSSAI has proactively undertaken measures to implement Front-of-Pack Nutrition Labelling requirements and an amended draft was notified on 13.09.2022 in exercise of the powers conferred by clause (k) of sub-section (2) of section 92 read with clause (h) of sub-section (2) of section 16 and section 23 of the Food Safety and Standards Act, 2006 (34 of 2006) and made available to the public for objections and suggestions, to the proposed amendment in the FSS (Labelling and Display) Regulations, 2020, which include the proposed Indian Nutrition Rating (INR) for FOPNL. This format is in line with global practices and adopts a star-rating system that presents simplified nutrition information on the front-of-pack of pre-packaged foods and provide information on the overall nutritional value of the food and/or on nutrients included in the FOPNL". It is designed to provide consumers with simplified, easy-to-understand information on nutritional content, assisting them in making healthier dietary choices.

8. It is submitted that the INR system uses a straightforward, star-based rating scale from 0.5 to 5 stars, where a higher star rating indicates a healthier product. This design aims to simplify the complex nutritional content of packaged foods, enabling consumers to assess products at a glance and encouraging healthier dietary decisions. By presenting the rating on the front of packages, INR allows consumers to compare the nutritional quality of similar products easily, fostering transparency and accessibility. The rating is based on factors such as energy content, sugar, salt, saturated fats and beneficial components like protein, fiber and certain vitamins and minerals. The INR model integrates both critical nutrients (such as added sugars, sodium, and saturated fats) and positive components (like fiber, protein, and certain legumes and nuts) in its scoring

system. This balanced approach helps consumers understand the over-all healthiness of a product, rather than focusing solely on its negative aspects. The inclusion of positive nutrients, however, is regulated through caps to prevent nutritionally poor products from receiving disproportionately high ratings simply due to small amounts of positive ingredients. This structure ensures that the rating accurately reflects the product's true health impact, preventing any potential manipulation of ratings.

A true copy of Draft notification dated 13.09.2022 is annexed herewith and marked as Annexure A.

9. It is submitted that over 14,000 comments were received from the public stakeholders, including Food Businesses, associations, Consumers, Consumer organisations, Public Health Organisations and other regulatory bodies as objections and suggestions against the draft amendment notification dated 13.09.2022.

10. It is submitted that to analyse and address the robust public feedback on the draft amendment notification, FSSAI constituted an Expert Committee on 17th February 2023. This committee, comprising of experts involved with FSSAI in developing FOPNL over the years, conducted five meetings and carefully reviewed all stakeholders comments. The expert committee in its 5th meeting has prepared the report of its recommendation. The report of the expert committee and the amended final (draft) notification of FSS (Labelling and Display) Amendment Regulations, 2022 will be submitted to the Scientific Committee for further recommendation and approval.

A true copy of Constitution of Expert Committee dated 17.02.2023 and subsequent extension dated 30.10.2023 are annexed herewith and marked as Annexure B.

11. That after the approval from Scientific Committee and proposal will be placed before the Food Authority for final approval."

5. In Para 9 of the reply, it has been stated that around 14000 comments were received in the form of objections, etc. from the public including the stakeholders, etc.

6. The Union has decided to undertake necessary amendments in the Food Safety and Standards (Labeling and Display) Amendment Regulations, 2022.

7. We dispose of this Writ Petition with a direction to the Expert Committee to prepare its recommendation and submit a Report in that regard at the earliest so that relying on the report, the necessary amendments can be given effect to.

8. Let this exercise be taken within a period of three months from today.

9. All pending applications, including application for intervention, stand disposed of.

10. List the matter after three months before this Court to report compliance of our directions.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)