

## M/S NESTLE INDIA LIMITED VS THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA, W.P. (L) NO. 1688 OF 2015

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### ABSTRACT

*Maggi is one of the most trustful brand of Indian households. The product has come a long way in the past years. Being the favourite noodles brand of the children it's the duty of the manufactures to follow the safety standards. As people started using the product more the demand increased in the market. The product had a rapid growth along with the changing lifestyles of the people. The safety of the food has to be ensured by providing healthy products by the manufactures. The Food Safety and Standards Act 2006 has made many guidelines ensuring food security in India. Food Safety and Standards Authority of India was established to set the rules and guidelines. They have the power to grant license and test the standard of food. FSSAI will do inspection in the food manufacturing companies. FSSAI is responsible to spread awareness about the consumption of safe and hygiene food. The presence of high lead content and Monosodium glutamate was found in the product which was not considered healthy for human consumption.*

**KEYWORDS** Food, Nestle, Maggi, India, Safety, Hygiene.

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|-------------------------------|---|-----------------------------------|--|
| <b>Case Title</b>             | M/S Nestle India Limited vs The Food Safety and Standards Authority of India  |                                   | Administrative Department  |
| <b>Case Number</b>            | Writ Petition (L) No.1688 of 2015   |                                   | 4. Commissioner of Food Safety, State of Maharashtra   |
| <b>Date of the Order</b>      | 13/08/2015  | <b>Counsel for Petitioner</b>     | Advocate Iqbal Chagla, Advocate Amit Desai   |
| <b>Jurisdiction</b>           | Bombay High Court   | <b>Counsel for Respondent</b>     | Respondent 1 &2- Advocate Anil Singh<br>Respondent 3 &4- Advocate Darius Khambatta   |
| <b>Quorum</b>                 | Justice V.M. Kanade and Justice B.P.Colabawalla   | <b>Acts and Sections Involved</b> | • Constitution of India 1950 Article 226<br>• The Food Safety and Standards Act 2006 Section 43, 46(4), 10(5), 16(1), 16(5), 18, 22, 26, 28, 30. |
| <b>Author of the Judgment</b> | Author-Justice V.M.Kanade<br>Citations- 2015 SCC ONLINE BOM 8526.2015 RCR CIVIL 5156  |                                   |  |
| <b>Petitioner</b>             | M/S Nestle India Limited  |                                   |  |
| <b>Respondents</b>            | 1. The Food Safety and Standards Authority of India<br>2. The Chief Executive Officer FSSAI<br>3. State of Maharashtra, Ministry of General |                                   |  |

## I. INTRODUCTION

Maggi alarm must nudge government towards greater alertness and stringent processes on food safety.<sup>10</sup> The case *M/S Nestle India Limited vs The Food Safety and Standards Authority of India* is of immense importance to be considered regarding the safety of food. There has been a greater difference in the habit of consuming of food among Indians over a period of time. The busy schedule and lifestyle of people living in the Metropolitan cities made them rely on instant food products. People started depending on ready to cook food products to save time. People will be buying the products without knowing the ingredients added in it and it's the duty of the manufactures to ensure food safety. This is a remarkable case which considered importance of food safety and standards. It's important to provide safe and quality food by the manufactures as it affects the health of the people. The products were advertised by the Bollywood actors to gain trust and attract the people.

## I. FACTS OF THE CASE

Nestle India Limited was a Subsidiary of the Swiss company Nestle. For the past 30 years they had been manufacturing many food products. Maggi is one of the highly rated instant noodles which is commonly used in most of the Indian homes. Nestle's Maggi was always a trustworthy brand for the people of India. Not only in the metropolitan cities, but also in the normal<sup>11</sup>

A packet of Nestle's Maggi instant noodles was randomly picked up by a food inspector from Barabanki, Uttar Pradesh and was sent to the State Food Laboratory in Gorakhpur for analysis of the safety level and contents. The packet claimed that there was no added MSG in the product. But the test analysis results showed the presence of MSG in the product. The information was passed to FSSAI and a notice was sent to Nestle. There was lead in excess of 2.5 ppm in

the thirty tested samples. The Apex Court granted stay to the order and the petitioner applied for product approval. A period of thirty days was given and certain clarifications made by both the petitioner and respondents<sup>12</sup>. The petitioner raised contention against the respondent's claim that the products were not standardized and had misleading information.

## II. ISSUES

A. Whether the Writ petition filed by the petitioner- company under Article 226 of the Constitution of India is maintainable when the impugned orders, according to the respondents, are show cause notices and that the petitioner has an alternative remedy of filing an appeal under section 46(4) of the Act?

B. Whether there was suppression of fact on the part of the petitioner and whether the petitioner had made an attempt to destroy the evidence disintitling the petitioner from claiming any relief from the court?

C. Whether there's violation of principles of natural justice on the part of respondents on account of the impugned orders being passed?

D. Whether it was established by the Food Authority that the lead beyond the limit was found in the product of the petitioner and the product was misbranded?

## IV ARGUMENTS FAVOUR OF PETITIONER

A. Condition of the proviso to Article 226 of the Constitution has not been complied.<sup>13</sup>

B. Petitioner company seeking an appropriate writ, order and direction for quashing and setting aside the order passed by the Chief Executive Officer.

C. Petitioner had an alternative remedy of filing an appeal under section 46(4) of the Act.

<sup>10</sup> The Indian Express June 4, 2015 01:03 IST

<sup>11</sup> Vanshika Sam it, *M/S Nestle India Limited vs The Food Safety and Standard Authority of India*, Lexpeeps Expanding Horizons of Legal Fraternity.

<sup>12</sup> Pallavi Rajain, Rupa Rathee , *Maggi Noodles: Ban and Revival*, Anusandhan

<sup>13</sup> Indian Kanoon, Case study *M/S Nestle India Limited vs The Food Safety and Standard Authority of India*

D. Challenging the impugned order passed by the Commissioner of Food Safety, State of Maharashtra.

E. Contented that it had tested the samples of batches in its own accredited laboratory and the results showed that the lead contained in the product was well within the permissible limits.

#### V. ARGUMENTS FAVOUR OF RESPONDENTS

A. The Provision of Article 226 of the Constitution gives High Courts the ability to issue instruction, orders, and writs to any person or authority including government.

B. The show cause notice had been issued to the Petitioner asking to show cause why product approval was granted and the petitioner instead of giving reply directly approached the Court.

C. The petitioner was destroying the evidence by burning manufactured goods in order to avoid further prosecution.

D. The petitioner had violated the terms which were imposed upon it. It was submitted that in the application for product approval a representation was made by the petitioner that the content of lead would be less than 1 ppm, but the test results showed more than that.

#### VI. ORDER OF THE COURT

Though the petitioner company stated that their product is safe for consumption, they had decided to remove its products from the market. The petitioner company has made a statement that it wouldn't manufacture or sell the product, the question granting stay to this judgment and order does not arise. Respondents were free to take any legal action against the petitioner in case if the petitioner act against the statement. If the petitioner does something against the statement, then the respondent has the right to take away the product from the market if discovered. They will do so after giving 72 hours notice to the petitioner.

#### VII. CONCLUSION

The case of M/S Nestle India Limited vs The Food Safety and Standards Authority of India shows the importance of hygiene and safe food standards. A well balanced judgment was given by the High Court of Bombay considering both the parties. After the ban on the product there were customers trusting the brand and welcomed the product. This happened because the manufactures were connected with the public through social media and they brought back the product in the market. New advertisements ensuring the safety of the product was shown to the people. The emotional connection with the customers saved the manufactures. There's no compromise in the safety and quality of food. The manufacturers should gain trust from the people by providing only healthy products. Health is important than the business tactics of the manufacturing companies.

#### VI. RELATED CASE LAWS

- A. Whirlpool Corporation vs Registrar of Trade Marks, Mumbai and others
- B. State of Bombay vs Moraji Cooverji
- C. A.K.Kraipak and others vs Union of India
- D. Mohinder Singh Gull vs The Chief Election Commissioner, New Delhi
- E. Pepsico India Holdings Private Limited vs Food Inspector

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