

Disposal of old PFA cases (Gujarat Example)

Taking cue from advisory from FSSAI asking Commissioners of Food Safety of all States/ UTs to dispose of old PFA cases, Government of Gujarat, took the lead and identified 3881 cases, out of total of 4329 cases, mainly in the category of 'misbranded', 'substandard' and 'not unsafe' which could be disposed of by imposition of fine. Special Sittings of the Courts were organized in all Districts and they have disposed of 1905 cases so far. Further, details are available under Legal Division in the website.

Best Practice: Reducing Litigation
Disposal of old PFA cases in Gujarat

On 5/8/2011, when the Food Safety and Standards Act, 2006 was made operational, Gujarat State had 4095 cases under PFA pending in different courts. FSSAI in its letter dated 2/8/2016 advised the States to examine old PFA cases and arrange their closure/ withdrawal, if considered appropriate. Various business associations had also been representing for withdrawal of old cases under PFA Act.

2. In a landmark judgement in CA No. 2014/16 on 17/3/2016, the Hon'ble Supreme Court had allowed modification of sentence of six- month Imprisonment under PFA to fine of up to Rs. 50,000/- as the same offence under the FSS Act, 2006 has a maximum penalty of only fine, where food is 'Not Unsafe'. Accordingly, an initiative was taken in the State of Gujarat to reduce the pendency of old cases under PFA Act by forming Technical Expert Committee comprising of all concerned to segregate pending cases in three categories, 'misbranding but not unsafe', 'substandard but not unsafe' and 'unsafe'. The Committee examined 4329 cases and suggested that 3881 cases were in respect of food that were 'Not Unsafe' and could be disposed of with fine only.

3. A uniform judicial procedure was developed for disposal of cases under guidance of "Gujarat State Legal Services Authority" and the same was approved by the State Health and Family Welfare Department and the State Legal Department. As per the guidance of "Gujarat State Legal Services Authority", final list of cases that could be disposed was also sent to State Health and Family Welfare Department for approval and same was accorded.

4. The State Legal Services Authority arranged for Special Sitting on 9th September 2017, in all districts of Gujarat, including High Court for consideration and disposal of the matters. This was followed by a letter dated 30th August, 2017 to concerned Legal Officers at District Level. The Executive Chairman of State Legal Services Authority also arranged a Video Conference with Judicial Magistrates in Districts to incentivize them in the matter.

5. On 9th September 2017 (2nd Saturday holiday), 250 JMFC Courts in 33 Districts had a special sitting whole day and disposed of 1200 cases and realized an amount of Rs. 1,25,00,000/- towards fine/ cost. Hon'ble High Court of Gujarat also disposed of 205 Acquittal Appeals same day and imposed of fine Rs. 45,000/-. In another special sitting organized on 17th December, 2017, the JMFC Courts disposed of 355 cases and High Court 145 cases. Thus, altogether, out of 3881 cases, 1905 cases were disposed of and an amount of Rs. 1,29,70,000/- realized towards fine/ cost.

6. The remaining 1976 cases are to be taken up in next special sitting. The resultant reduction in workload due to disposal of large numbers of cases has enabled the officers of Food Safety Departments to devote more time in constructive work to ensure safe and wholesome food for the citizens of the State. This has also lessened the burden on Judiciary and have made FBOs happier.

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