



FOOD ADULTERATION: A HEINOUS CRIME

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ABSTRACT

Right to food is one of the consumer's human rights where every consumer is entitled to birth as human beings. Food is considered as the basic necessity of living creatures. In India, it is one of the directive principles of state policy & enforceable by law. Food adulteration is now a major threat to consumer's health & consumers are plagued by a variety of health problems. Many types of adulteration are added in the foods & have hazardous health effect on humans. This article tries to bring about the meaning of food adulteration & consider food adulteration is a heinous crime. It also provides detail of Indian laws, policies & legal framework to curb food adulteration related issues. At its conclusion, this article points out some issues to be addressed by Indian government for better implementation of act & also suggest some suggestions which could be proved beneficial to society.

KEYWORDS: Adulteration, food, health, consumer, crime

*“THEY CLAIM TO BE AS PURE AS & AS WHITE AS MILK. BUT NOWADAYS MILK GOT THE
ADULTERATIO TOO.”*

INTRODUCTION

Food is considered as fundamental requirement of all living creatures. The right to food is one of the essential rights of consumers which are entitled to him of being born as human beings. In our early Indian society, food i.e. 'Anna' is considered as Prasad of god & free from anything that is harmful to health & free from addition or subtraction of anything which might impair wholesomeness, & present to the public in a forthright & factual manner. In today's modern world with the advancement of science & technology, the chances of adulteration i.e. manufacturing, processing, have increased. Unharmed and unadulterated food is requirement for a healthy body and is one of the basic factors for nourishment of life. The 2018-2019 Food Safety Standards Association of India (FSSAI) Report discovered that 28% of food samples were adulterated and that adulteration had doubled since 2012. Over the years, food adulteration has become a severe health concern affecting millions of people around the globe. Nowadays, food adulteration can be found from day to day commodities to life saving drugs. Unluckily, polluted and adulterated foods have been making their way through the food supply chain,

raising serious concerns about people's health. The immense use of many chemicals and insecticides on food items is a concern for the people as these chemical agents can prove very dangerous to our health.

The Supreme Court Monday (April 19, 2021) issued a notice to the Centre and 34 state and Union Territories on a petition seeking directions to check the genuineness of honey being sold in India. The notice was issued by a bench of Chief Justice SA Bobde, AS Bopanna and V Rama Subramanian to the Union ministries of home affairs; health; commerce; information and broadcasting; the Food Safety and Standards Authority of India; along with states and UTs. *“Most of the honey sold in the Indian market is adulterated with sugar syrup. Therefore instead of honey people are eating more sugar, this is immensely worrying as it will further compromise health in the troubled times of COVID-19,”*

“Recently, honey samples from 13 homegrown brands were tested according to Indian and International Standards. Disturbingly, 75% of the honey samples were adulterated with modified sugar syrup, making it undetectable to common adulteration tests.”

OBJECTIVES OF ARTICLE

This Article focuses on the meaning of adulteration in food & also discusses various types of food adulterants & its harmful effect on human health. The objective is to study some of the common food adulterants present in various food stuffs. Adulteration in food generally exists in its most crude form; prohibited substances are either added or partly or wholly substituted. Normally the pollution in food is done either for financial gain or due to carelessness & lack in proper hygienic conditions of processing, storing, transportation. This finally results in cheating of the consumer or often become victim of diseases. It also tries to bring out the existing provisions of Indian law regarding Food Adulteration. This Chapter also bring out some suggestions which might help in eradicating this problem.

FOOD ADULTERATION

Before discussing the meaning of food adulteration, we must clear the term Food. **“Food”** means any article used as food or drink for human consumption other than drugs & water & includes –

- a) *Any article which ordinarily enters into, or is used in the composition of preparation of human food*
- b) *Any flavoring matter of condiments*
- c) *Any other article which the central government may, having regard to its use nature, substance or quality, declare by notification in the official gazette*

Food Adulteration means that something adding or subtracting with food creating it harmful to health. It means substitute of the original food material entirely or partially with any degraded or inferior substance or removal of any of its component, wholly or in part that have an effect on the standard of food. This adulteration could also be done intentionally or unintentionally. It is considered as a criminal act & punishable offense. It is the course of letting down the nutrient value of food either by take out a basic component or by adding substances of low quality. In India, the problem is so far flung that from 25% to 70% of most of the food products consumed are adulterated or polluted. Thousand of peoples get severely sick every year due to adulteration in food products & a large number of people suffer from malnutrition, weakness & other diseases. It is proved that as per surveys conducted by government & other agencies that the cases of adulteration in food stuffs are very high. The affect of crime of food adulteration is widespread & its influence on society is not only economic but social, moral, psychological & legal as well. Adulteration causes irrecoverable damage to public moral & public health.

The judiciary has also expressed their opinion to eliminate the grave menace from the society.

A.S. Bains, J. observed in **Paramjit Singh v/s State of Punjab:**

“The adulteration of food stuffs has crossed all proportions & hardly anything pure is available in the market. It is the most heinous crime against the society. In any way, times have come when the state government should think of adopting more stringent measures to check adulteration of food stuffs. “

The Himachal Pradesh High Court observed in the case of **State v/s Surinder Kumar:**

“ The person who adulterates articles of food wants to enrich himself by making money by endangering the lives of the society or by selling the articles of food under the pretext of pure food & articles which actually they are not. “

CONSUMER is a person or a group who means to order or uses purchased goods, products or services mainly for personal, social, family or household needs. Adulteration of food deceive the consumer & can pose serious risk to health in some cases. There are various food articles which are adulterated & can cause grave threat to consumer life.

LIST OF FOOD ARTICLES & THEIR ADULTERANTS & EFFECT ON HUMAN

<u>FOOD ARTICLES</u>	<u>ADULTERANTS</u>	<u>HARMFUL EFFECTS</u>
TEA	USED TEA LEAVES & PROCESSED & COLORED	LAHYRISM CANCER
MILK	WATER & STARCH Caustic soda	STOMACH DISORDER
COFFEE POWDER	TAMARIND SEEDS,DATE SEED POWDER	DIARRHOEA,JOINT PAIN
WHEAT & OTHER FOOD GRAINS	ERGOT	POISONOUS
SUGAR	CHALK POWDER	STOMACH DISORDER
MUSTARD POWDER	ARGEMONE SEEDS	GLUCOMA
TURMERIC POWDER	YELLOW ANILINE DYES, TAPIOCA STARCH	STOMACH DISORDER
CHILLI POWDER	BRICK POWDER, SAW DUST	STOMACH PROBLEM,CANCER
VEGETABLES	WAX, CALCIUM CARBIDE,CHEMICAL DYE	STOMACH DISORDER
DAL	METANIL YELLOW,	NEUROTOXICITY
MUSTARD SEEDS	ADD ARGEMONE SEEDS	AFFECT LIVER & STOMACH DISORDER
ICE CREAM	WASHING POWDER	AFFECT LIVER
HONEY	WATER OR SUGAR SOLUTION	PRODUCT QUALITY DECLINES

LEGISLATIVE ENACTMENTS TO FIGHT THE THREAT OF FOOD ADULTERATION:

Every human is a consumer while availing the various necessities of his life. There are various laws made by Indian government to protect the consumer against adulterated food.

INDIAN PENAL CODE: The right of consumers has protected relating to Food Adulteration is contained in section 272 & 273 of IPC.

Section 272: *“Whoever adulterates any articles of food or drink, so as to make such articles noxious as food or drink, intending to sell such articles as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.”*

Section 273: *“Whoever sells or offer or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.”*

India, being a welfare state, its duty of state to protect the consumers from consuming adulterated food. According to **ARTICLE 47** of Indian Constitution: its duty of state,

“The state shall endeavor to raise the level of nutrition & standards of living & to improve the health of the people.”

Prevention of Food Adulteration Act, 1954

Government of India enacted a Central Legislation called the Prevention of Food Adulteration Act, 1954 with the aim of ensuring pure and hygiene food to the consumers and to protect them fraudulent and deceptive trade practices. The framed rules are revised from time to time by an expert body called the “Central Committee for Food Standards” which is constituted by the Central Government under the provisions of the Act. The Prevention of Food Adulteration Act was amended in 1964, 1976, and the lately in 1986 to make the Act more rigid. The Act provides protection against adulteration or contamination of food that may have harmful effects on consumer’s health. The Act also deals with the frauds that can be perpetrated by the dealers by supplying cheaper or adulterated foods. The Act regulates the use of chemicals, pesticides flavors and other additives in food preparation. Dumping of substandard foods is controlled under this act. Central plays a vital role in proper coordination, monitoring and surveillance of the programmed throughout the country..

In India, food adulteration is governed by the *Prevention of Food Adulteration Act, 1954*. The object of this act:

- To prevent adulteration & misbranding of foods
- To provide for adequate punishments to food adulteration
- To secure purity of food to maintain public health
- To warn producers & manufactures of food to ensure safety in the realm of food
- To ensure that food which the public can buy is inter alia prepared, packed & stored under conditions so as not be injurious to health of consumers

Guilt will be punished with imprisonment for a term which shall not be less than six months and up to 3 years and with fine up to one thousand rupees

This Act defines when food will be considered adulterated. They are the following:

- *When a vendor sells a food article to a purchaser which is not of the quality or substance and nature demanded.*
- *When it contains an unnatural substance that is hazardous to health consumption.*
- *If any unnatural substance is added partially or whole to the original product.*
- *When a food product is stored or packed or prepared under an unhygienic condition which makes the food unhealthy for consumption.*
- *When any diseased animal is used for the preparation of food.*
- *When a food contains any poisonous substance.*
- *When the container of food is made up of any health hazardous substance.*
- *When food color is added more than the prescribed quantity or if any other health hazardous substance is used for adding color to the food article.*
- *When a food article is preserved with any prohibited substance or when food preservative is used in excess amount.*

The Ministry of Health & Family Welfare has established the **Food Safety and Security Authority of India (FSSAI)** under *Food Safety and Security Act, 2006* to regulate the science-based standards of food and also for manufacturing, packing, storage, distribution, import and sale to ensure the good quality of food. This Act was enforced to set up a single food quality platform for various food products. It also appoints food safety authorities on the state level.

The main aim of **FSSAI** is to:

- a. Lay down science – based standards for articles on food
- b. To regulate the manufacture, storage, distribution, import & sale of foods
- c. To facilitate the safety of food
- d. To create an information network across the country so that the public, consumers, panchayats, receive rapid, reliable & objective information about food safety & issues of concerns
- e. Contribute to the development of international technical standards for food, sanitary standards.
- f. Promote general awareness about food safety & food standards

Offences & penalties under FSSA

The act comprises a list of offences in which the penalties shall be imposed:

- A penalty for selling of food which is not of the quality as per the regulations under the act. The penalty shall not exceed five lakh rupees,
- A penalty for manufacturing for sale, storing, selling, distributing, importing food of sub-standard quality which may extend to five lakh rupees,
- A penalty for manufacturing for sale storing, selling, distributing or importing misbranded food products which may extend to three lakh rupees,
- The act prohibits misleading advertisements & there is a penalty which may extend to ten lakh rupees,
- A penalty is also prescribed for manufacturing, storing, selling food product containing extraneous material & such penalty may extend to one lakh rupees,
- There is a penalty of one lakh rupees for manufacturing or processing food in unhygienic conditions,
- When no separate penalty is provided & there is any contravention for provisions or for regulations of the act, then penalty extend up to two lakh rupees

COMPLAINT MECHANISM

When the consumer found any food to be adulterated, then complaint can be made to following:

- I. Firstly to shopkeeper or manufacturer from where a consumer has purchased food or drink for consumption
- II. Secondly to local health advisory of district or commissioner of food safety of the state / union territory
- III. Lastly to consumer

The consumer forum also exists at three levels i.e., district, state & national level. The grievances have the original jurisdiction at the state & national level. Consumers can also connect to FSSAI (food safety & standard authority of India) to control the rules & regulations which are specified in the food safety & standard act. An online platform “food safety voice “is launched where the consumers can register their complaints & food safety issues about adulterated food.

JUDICIAL INTERPRETATION

The judiciary has been playing a significant role for effective implementation of legal protection to the consumers against adulteration. The judiciary has interpreted in numerous cases about the importance of PFA & various stringent measures to protect food adulteration.

In **M.V. Joshi v/s N. Shimpi & another**¹, it was held that in the Indian Act, selling butter below the prescribed standard is deemed to be adulterated if the standard is not maintained. The court observed adulterations in food stuffs are serious offences calling deterrent punishment.

In **Administrative municipal board gangapur society v/s Om prakash**, the court observed that food adulteration is a social crime which endangers the society at large such economic offences deserve deterrent punishment any leniency in this respect or effort to acquit the accused deserved out-rights rejection.

In **Nestle India Limited v/s The Food Safety & Standards Authority of India**² (the Maggi case), as per reports of the food analyst, passed an order dated 05 June 2015, imposing ban on all the 9 variants of “ maggi noodle” on the ground of lead was found in excess of the permissible limit. The H on’ble High Court emphasized that public health & manufacture & sale of safe & wholesome food to the people of India is of utmost importance. The judgments should also pave way for the regulator to holistically look at the packaged food & not take adversarial steps which may affect packaged food market at large.

In **Parmanand Katara v/s Union of India**³, held that right to health & medical care is a fundamental right under Article 21 of the Indian constitution. The state has an obligation to safeguard the right to life of every person, preservation of human life being of paramount importance.

In **Centre for Public Interest Litigation v/s Union of India**⁴, the Supreme Court observed that “ the right to life & human dignity under Article 21 of the constitution also incorporates the right to have food articles

¹ *Criminal Appeal No. 165 of 1959.*

² *AIR 2016 (NOC) 225 (BOM.)*

³ *1989 AIR 2039*

⁴ *(2012) 3 SCC 1*

& beverages which are free from harmful residues such as pesticides & insecticides, that food articles which are harmful & injurious to public health had the potential of striking at the fundamental right to life guaranteed by the constitution & it was the government responsibility to take steps for protection of life & health. “

SUGGESTIONS & CONCLUSIONS

Food Adulteration occurs globally & it also affects almost all food communities. It causes tremendous affect on health. It can be prevented by just creating awareness among consumers. Though presence of adulterants cannot be ensured by visual examination, but before purchasing any product the consumer should avoid buying food from proper hygiene conditions. Both local & branded food stores should be inspected by government bodies. Our government has made sincere efforts to curb the fraudulent practices by enactment of various laws. FSSAI has released a booklet called ‘Detect Adulteration with Rapid Test (DART)’ which covers quick tests for detection of food adulterants at households by the citizens themselves. It has also introduced a policy for adoption of Rapid Analytical Food Testing (RAFT) kit/ equipment for regulatory purpose. It is equally important to regularly check food stuff for adulteration and ensure speedy trials through specific fast track courts.

Adulteration often considered as a one of the major problem of routine life and its ill effects on health from their daily meal item, either, in cereals, pulses, fruits and vegetables or in milk and milk products and spices. The legal enforcement is only one measure of prevention of food adulteration and it will not have any appreciable impact unless and until there is adequate supply of food at a reasonable price which the average consumer can afford, awareness of the small traders about the food standards which they are expected to maintain, awareness of the common consumer regarding the dangers of adulteration and how to take advantage of the legal machinery to force the traders to get proper food and to use the latest technologies in food production and processing at a considerable level which is capable for human being to accept and lastly a sense of honesty among the food traders, in the maintenance of the safety and quality food.

SUGGESTIONS

Food adulteration is a major social problem in every society. Government of India, enacted a Central Legislation called the Prevention of Food Adulteration Act, the objective envisaged in this legislation is to ensure pure and wholesome food to the consumers and also to prevent fraud or deception. The general public traders and food inspectors are all responsible for perpetuating this evil. Unless the public rises up against the traders and unscrupulous food inspectors, this evil cannot be curbed. It is here the voluntary agencies, consumer guidance, proper cancelling and IEC materials can play a vital role.

- Make sure the food product you buy has an FSSAI – validated label; it includes the detailed list of ingredients & expiration date
- To prevent food adulteration regular surveillance, monitoring, inspection & random samplings of food products should be carried out by Food Safety officers of states & Union Territory.
 - Spread consumer awareness regarding food adulteration & rights of consumers. The protection of consumer rights is not only the responsibility of the state but the consumer himself is aware of his rights & legal remedy available for his violation of right.
 - The country does not have the necessary infrastructure for test facilities & even existing test units do not often meet global standards. So there is need of test lab in every district

REFERENCES

- **Paramjit Singh v/s State of Punjab, 1981 F.A.J. 25.**
- **INDIAN PENAL CODE, 1860**
- **PREVENTION OF FOOD ADULTERATION ACT, 1956**
- **Parmanand Katara v/s Union of India, 1989 A.I.R. 2039**
- **Bharatpaul Puja Patal Jasbir Singh Malik – FOOD SAFETY THE INDIAN PERSPECTIVE NATIONAL JOURNAL OF COMMUNITY MEDICINE 2015**
- **<https://indiankanoon.org/doc>**
- **Anurag Bhardwaj,” FOOD SAFETY LAWS IN INDIA: A CRITICAL ANALYSIS OF THE EXISTING LEGAL FRAMEWORK” 1 SML. L. REV. 244 (2018)**
- **Jyothi Gurupadappa, 2017, “ PROTECTION OF CONSUMER RIGHTS AGAINST ADULTERATION OF FOOD IN THELIGHT OF PREVENTION OF FOOD ADULTERATION ACT 1954”, INTERNATIONAL JOURNAL OF CURRENT RESEARCH, 9, (09), 57442-57444**
- **Nestle India Limited v/s The Food Safety & Standards Authority of India**
- **Centre for Public Interest Litigation v/s Union of India**
- **Administrative municipal board gangapur society v/s Om prakash, 1982 R.L.W. P. 189.**
- **M.V. Joshi v/s N. Shimpi & another**
- **State v/s Surinder Kumar, AIR 1974 S.C.228**
- **<https://pib.gov.in/PressReleasePage.aspx?PRID=1604954>**
- **Indian Constitution, the Prevention Food Adulteration Act. 1954**
- **The Prevention of Food Adulteration Act & Rules (as on 1.10.2004).**
- **[http://www. food adulteration and its problems](http://www.foodadulterationanditsproblems.com)**
- **Kishor, J. The Preventive of Food Adulteration Act (1954), Page no. 401-403**
- **<https://timesofindia.indiatimes.com> ›**
- **https://www.researchgate.net/publication/274383293_FOOD_ADULTERATION**
- **<http://www.justicewatchfoundation.org/activities/projects/pure-food-pure-rights.html#:~:text=Food%20adulteration%20means%20anything%20adding,criminal%20act%20and%20punishable%20offense.>**
- **<https://www.cram.com/essay/Food-Adulteration-Essay/PJPUHAZAEU>**
- **<https://www.ajkcas.com/pdf/impulse2017-18/7.pdf>**