Food Safety, Immediate Licence Suspension and Consumer Protection in India

Mains: *GS II – Health*

Why in News?

In recent months, intensified inspections by the Maharashtra Food and Drug Administration (FDA) have resulted in several food establishments facing suspension of their licences for alleged food-safety violations.

What is the Statutory Framework under the FSS Act, 2006?

- **FSS Act, 2006 – The Food Safety and Standards Act, 2006** seeks to consolidate food-related laws and establish the Food Safety and Standards Authority of India (FSSAI) as the principal regulatory authority for ensuring safe and wholesome food.
- Under the Act, a **Food Business Operator** includes any undertaking, whether public or private and whether carried out for profit or not, engaged in activities connected with the manufacture, processing, packaging, storage, transportation, distribution, import or sale of food, including food services.
- **Improvement notices under Section 32 –** Section 32 provides the normal statutory mechanism for dealing with non-compliance.
- Where the Designated Officer has reasonable grounds to believe that an FBO has failed to comply with the provisions of the Act or regulations, the officer may issue an **improvement notice**.
- Such a notice must:
    - State the grounds for believing that the FBO has failed to comply
    - Specify the matters constituting the contravention;
    - Specify the measures required to secure compliance; and
    - Give the FBO a reasonable period to take corrective action.
- The period specified for compliance **cannot be less than 14 days**.
- Thus, the ordinary statutory scheme is corrective rather than immediately punitive.
- The FBO is ordinarily given an opportunity to remedy deficiencies before its licence is suspended.
- If the FBO fails to comply with the improvement notice, its licence may be suspended.
- Continued failure may ultimately lead to cancellation of the licence, subject to the prescribed procedure and an opportunity to show cause.
- **The Public-Health Exception –** The law, however, recognises that food-safety violations can sometimes pose an immediate threat to public health.
- The proviso to Section 32(3) therefore empowers the Designated Officer to **suspend a**

licence forthwith in the interest of public health, provided that reasons for doing so are recorded in writing.

- This is an important exception to the ordinary requirement of giving the business time to rectify deficiencies.
- The provision does not mean that every hygiene violation automatically justifies immediate suspension.
- The power is exceptional and must be connected to the protection of public health.
- Therefore, the authority must be able to demonstrate why immediate action was necessary and why an improvement notice or a lesser regulatory measure would not adequately address the risk.

Who is the Designated Officer?

- **Section 36** – It provides for the appointment of a Designated Officer by the Commissioner of Food Safety.
- The officer is responsible for food-safety administration within the district and must possess the qualifications prescribed by law.
- The Designated Officer has several important functions, including issuing, suspending and cancelling food licences, prohibiting the sale of food in appropriate circumstances, arranging for food samples to be tested, investigating complaints, maintaining inspection records and initiating or recommending appropriate legal action.
- The exercise of these powers must, however, conform to the principles embodied in the FSS Act and cannot be arbitrary or disproportionate.

What Have the Courts Said?

- **V.B. Muraleedharan v. Commissioner of Food Safety (2020)** – The Kerala High Court observed that failure to issue an improvement notice would not necessarily invalidate action taken by the Designated Officer on the basis of a test report.
- The court treated issuance of an improvement notice as discretionary and recognised that every case of adulteration or misbranding cannot be subjected to an identical procedure.
- **A.R. Dairy Food (P) Ltd. v. Food Safety and Standards Authority of India (2025)** – The Madras High Court, emphasised another important principle: suspension is an **interim measure** and cannot continue indefinitely.
- Where a licence is suspended, the authority must take a decision regarding further action within a reasonable period. The court indicated that suspension should not operate for more than six weeks without the authorities taking an appropriate decision regarding cancellation.
- The Bombay High Court has more recently examined the issue in the context of Maharashtra.
- **Wardha Tahsil Go-Dugdha Utpadak Sahakari Sangh Ltd. v. State of Maharashtra (2026)** – An inspection revealed deficiencies relating to sanitation, storage, pest control, hygiene, training and documentation. More seriously, industrial ice marked as non-edible had allegedly been used in buttermilk.
- The court distinguished between ordinary regulatory deficiencies and circumstances involving a potential health risk.

- It held that immediate suspension without an improvement notice requires circumstances indicating a possible harmful effect on health or reasonable grounds to suspect a risk to human health, depending upon the nature, seriousness and extent of the violation.
- The court found the use of industrial ice in buttermilk sufficiently serious to justify preventive action but quashed the suspension of the entire licence.
- **Akshay Dairy Farm v. State of Maharashtra (2026)** – The Bombay High Court prima facie questioned whether direct suspension without allowing the FBO an opportunity to rectify defects was justified.
- It observed that the suspension order did not adequately demonstrate why immediate action was imperative in the interest of public health or why a lesser measure would not have served the purpose.
- **Saraswati Milk Products (P) Ltd. v. State of Maharashtra (2026)** – The court also considered the establishment's substantial compliance and the failure to supply the inspection report before action was taken, indicating the importance of procedural fairness and proportionality.
- **Sayaji Hotels (Indore) Ltd. v. Food Safety and Standards Authority of India (2026)** – The Madhya Pradesh High Court adopted a similar approach and it held that deficiencies such as inadequate food labelling or food articles found in unhygienic surroundings do not automatically justify invoking the exceptional power of immediate suspension.
- Where the risk does not warrant urgent intervention, an improvement notice should ordinarily be considered.

Corrective Action Must Have Consequences
• The legal framework is not merely about protecting businesses from arbitrary regulatory action. • Once deficiencies are identified, food businesses have a corresponding duty to promptly comply. • The Bombay High Court's approach in the matter concerning **Park Inn by Radisson** illustrates this balance. • The FDA had suspended the hotel's licence following an inspection that identified hygiene and sanitation concerns, including insects in the kitchen area. • The hotel challenged the action, and the licence was subsequently restored after the deficiencies that had prompted preventive action were substantially rectified. • More recently, in *Siddharth Agro v. State of Maharashtra* (2026), the Bombay High Court highlighted the need for regulatory authorities to act promptly even after deficiencies have been corrected. • It observed that continued suspension or cancellation despite compliance causes serious financial consequences for businesses, employees and supply chains. • Once the authority is satisfied, including on the basis of an inspection report, that deficiencies have been rectified, the suspension or cancellation order should be revoked. • Thus, regulatory enforcement must operate in **both directions**: authorities must act decisively where public health is at risk, but must also withdraw restrictive measures when their preventive purpose has ceased.

What Happens When a Consumer Is Injured?

- The FSS Act also provides a direct compensation mechanism for consumers.

- Under **Section 65**, where consumption of unsafe food causes injury or death, the adjudicating officer or court may direct the responsible manufacturer, distributor, seller or importer to pay compensation to the victim or the legal representative.
- The statutory compensation framework provides:
  - **At least ₹5 lakh in case of death**;
  - **Up to ₹3 lakh for grievous injury**; and
  - **Up to ₹1 lakh for other injuries**.
- In cases involving death, interim relief is to be provided to the next of kin within 30 days.
- Compensation is required to be paid at the earliest and, in any event, within six months of the incident, subject to the statutory process.
- In cases involving death or grievous injury, additional consequences may include publication of the offender's details and penalty. Depending upon the circumstances and applicable provisions, authorities may also recall unsafe food, cancel licences, issue prohibition orders and take prosecution or other enforcement measures.

What are the important considerations?

- **Public Health Comes First –** Where contaminated food, toxic substances, dangerous processing practices or other circumstances create an immediate health risk, authorities cannot be expected to wait for a 14-day corrective period.
- **Not Every Deficiency is an Emergency –** Minor or rectifiable shortcomings should ordinarily be addressed through an improvement notice and reasonable opportunity for compliance.
- **Regulatory Action Must Be Proportionate –** Even where immediate intervention is justified, authorities should consider whether suspension of the entire licence is necessary or whether prohibition of a particular product, process or activity would adequately protect consumers.

What could be done?

- A robust food-safety regime requires both **strong enforcement and predictable due process**.
- Authorities should adopt risk-based inspections, maintain detailed inspection records, provide businesses with inspection findings wherever legally required, record specific reasons for invoking immediate suspension and periodically review preventive orders.
- At the same time, food businesses must treat hygiene, sanitation, pest control, food storage, traceability and staff training as continuous obligations rather than mere compliance exercises.

What lies ahead?

- The FSS Act does not create an absolute rule that a restaurant or food business must always be given 14 days before its licence can be suspended.
- Nor does it permit authorities to shut down establishments automatically whenever deficiencies are detected.
- The normal rule under Section 32 is **improvement and corrective action**.
- Immediate suspension is an **exception**, justified only where the circumstances make it

necessary in the interest of public health and the reasons are recorded in writing.

- The judicial trend therefore seeks to strike a careful balance: **protect consumers from immediate risks while preventing arbitrary or disproportionate regulatory action against businesses**.
- Ultimately, an effective food-safety regime must ensure that neither commercial interests nor procedural formalities are allowed to compromise the fundamental objective of the law—protecting public health and ensuring that citizens have access to safe and wholesome food.

Reference

[The Hindu| Closure of Hotels & FSS Act]

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