

GOVERNMENT OF INDIA
 MINISTRY OF AGRICULTURE AND FARMERS WELFARE
 DEPARTMENT OF ANIMAL HUSBANDRY, DAIRYING AND FISHERIES
 LOK SABHA
 UNSTARRED QUESTION NO.3120
 TO BE ANSWERED ON 21ST MARCH, 2017

LINKING OF FARMERS TO MILK INDUSTRY

3120. DR. RAMESH POKHRIYAL "NISHANK:

Will the Minister of AGRICULTURE AND FARMERS WELFARE कृषि और किसान कल्याण मंत्री be pleased to state:

- a) whether the Government is providing any subsidy to the farmers to link them with milk industry in view of shortage of milk products leading to adulteration in the entire country;
- b) if so, the details thereof;
- c) whether organic milk is being produced by the farmers;
- d) if so, whether any trainings and incentives are being provided to the farmers in this regard and if so, the details thereof;
- e) whether the Government is running any campaign to save consumers from adulterated milk in the country, if so, the outcome thereof; and
- f) the details of the provisions made by the Government to penalise the persons guilty of milk adulteration?

ANSWER

THE MINISTER OF STATE FOR AGRICULTURE AND FARMERS WELFARE
 (SHRI SUDARSHAN BHAGAT)

- (a) No Madam, there is no reports of shortage of milk products in the country.
- (b) Does not arise in view of the reply at (a) above.
- (c) Yes *madam*.
- (d) This Department is not providing any trainings and incentives for production of organic milk.
- (e) The issue of adulterated milk is governed under the Food Safety and Standards Act, 2006 which is administered by the M/o Health and Family Welfare, Government of India through Food Safety Standards Authority of India (FSSAI). Enforcement of the provisions of the Food Safety and Standards Act, 2006 is *primarily* the responsibility of the State/UT Governments. FSSAI identified Electronic milk Adulteration Tester (EMAT) with milk analyser for detection of adulterants like urea, detergent, ammonium sulphate, salt, Hydrogen peroxide, sodium bicarbonate, caustic soda etc. FSSAI is taking comprehensive steps for consumer awareness generation and redressal of consumer complaints and to achieve this goal FSSAI recently launched many consumer contact media i.e SMS, WhatsApp, twitter, FSSAI App, Toll-Free No, FSSAI Facebook Page, and Food Safety Voice.
- (f) The provisions of offences and penalties have been prescribed under Chapter IX of the FSS Act, 2006. Section 57, 58 and 59 of the Act, provide for penalties for cases of adulteration. The chapter IX of FSS Act, 2006 is annexed.

Provided that if an application is made to the Designated Officer in this behalf by the person from whom any article of food has been seized, the Designated Officer shall by order in writing direct the Food Safety Officer to produce such article before him within such time as may be specified in the order.

(5) In case of imported articles of food, the authorised officer of the Food Authority shall take its sample and send to the Food Analyst of notified laboratory for analysis who shall send the report within a period of five days to the authorised officer.

(6) The Designated Officer, the Food Safety Officer, the authorised officer and the Food Analyst shall follow such procedure as may be specified by regulations.

CHAPTER IX OFFENCES AND PENALTIES

48. General provisions relating to offences.

(1) A person may render any article of food injurious to health by means of one or more of the following operations, namely:-

- (a) adding any article or substance to the food;
- (b) using any article or substance as an ingredient in the preparation of the food;
- (c) abstracting any constituents from the food; or
- (d) subjecting the food to any other process or treatment, with the knowledge that it may be sold or offered for sale or distributed for human consumption.

(2) In determining whether any food is unsafe or injurious to health, regard shall be had to -

- (a) (i) the normal conditions of use of the food by the consumer and its handling at each stage of production, processing and distribution;
- (ii) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods not only to the probable, immediate or short-term or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;
- (iii) to the probable cumulative toxic effects;
- (iv) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers; and

(v) also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities;

(b) the fact where the quality or purity of the article, being primary food, has fallen below the specified standard or its constituents are present in quantities not within the specified limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be unsafe or sub-standard or food containing extraneous matter.

Explanation – For the purposes of this section, "injury", includes any impairment, whether permanent or temporary, and "Injurious to health" shall be construed accordingly.

49. General provisions relating to penalty.

While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer or the Tribunal, as the case may be, shall have due regard to the following:-

- (a) The amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,
- (b) The Amount of loss caused or likely to cause to any person as a result of the contravention,
- (c) The repetitive nature of the contravention,
- (d) Whether the contravention is without his knowledge, and
- (e) Any other relevant factor,

50. Penalty for selling food not of the nature or substance or quality demanded.

Any person who sells to the purchaser's prejudice any food which is not in compliance with the provisions of this Act or the regulations made thereunder, or of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding five lakh rupees.

Provided that the persons covered under sub-section (2) of section 31, shall for such non-compliance be liable to a penalty not exceeding twenty five thousand rupees.

51. Penalty for sub-standard food.

Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakh rupees.

52. Penalty for misbranded food.

(1) Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

(2) The Adjudicating Officer may issue a direction to the person found guilty of an offence under this section, for taking corrective action to rectify the mistake or such article of food shall be destroyed.

53. Penalty for misleading advertisement.

(1) Any person who publishes, or is a party to the publication of an advertisement, which—

(a) falsely describes any food; or

(b) is likely to mislead as to the nature or substance or quality of any food or gives false guarantee, shall be liable to a penalty which may extend to ten lakh rupees.

(2) In any proceeding the fact that a label or advertisement relating to any article of food in respect of which the contravention is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the contravention was committed.

54. Penalty for food containing extraneous matter.

Any person whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter, shall be liable to a penalty which may extend to one lakh rupees.

55. Penalty for failure to comply with the directions of Food Safety Officer.

If a food business operator or importer without reasonable ground, fails to comply with the requirements of this Act or the rules or regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

56. Penalty for unhygienic or unsanitary processing or manufacturing of food.

Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions, shall be liable to a penalty which may extend to one lakh rupees.

57. Penalty for possessing adulterant.

(1) Subject to the provisions of this chapter, if any person who whether by himself or by any other person on his behalf, imports or manufactures for sale, or stores, sells or distribute any adulterant shall be liable –

- (i) where such adulterant is not injurious to health, to a penalty not exceeding two lakh rupees;
- (ii) where such adulterant is injurious to health, to a penalty not exceeding ten lakh rupees.

(2) In a proceeding under sub-section (1), it shall not be a defence that the accused was holding such adulterant on behalf of any other person.

58. Penalty for contraventions for which no specific penalty is provided.

Whoever contravenes any provisions of this Act or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees.

59. Punishment for unsafe food.

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,–

- (i) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;
- (ii) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;
- (iii) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;
- (iv) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh Rupees.

60. Punishment for interfering with seized items.

If a person without the permission of the Food Safety Officer, retains, removes or tampers with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

61. Punishment for false information.

If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

62. Punishment for obstructing or impersonating a Food Safety Officer.

If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under this Act, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

63. Punishment for carrying out a business without licence.

If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufactures, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

64. Punishment for subsequent offences.

(I) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

(ii) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(iii) his licence shall be cancelled.

(2) The Court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

65. Compensation in case injury of death of consumer

(1) Without prejudice to the other provisions of this Chapter, if any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

- (a) not less than five lakh rupees in case of death;
- (b) not exceeding three lakh rupees in case of grievous injury;
- and
- (c) not exceeding one lakh rupees, in all other cases of injury;

Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident:

Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.

(2) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

(3) The Adjudicating Officer or the court may also,—

- (a) order for cancellation of licence, re-call of food from market, forfeiture of establishment and property in case of grievous injury or death of consumer;
- (b) issue prohibition orders in other cases.

66. Offences by companies.

(1) Where an offence under this Act which has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be

deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in-charge of such establishment, branch, unit nominated by the company as responsible for food safety shall be liable for contravention in respect of such establishment, branch or unit:

Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means anybody corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

67. Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided under any other Act.

(1) Any person who imports any article of food which is in contravention of the provisions of this Act, rules and regulations made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and the Customs Act, 1962 (52 of 1962) be also liable under this Act and shall be proceeded against accordingly.

(2) Any such article of food shall be destroyed or returned to the importer, if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or the Customs Act, 1962 (52 of 1962), or any other Act, as the case may be.