

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

I.A. No. of 2024
IN
WRIT PETITION (CRIMINAL) NO.690 OF 2023
IN THE MATTER OF:-

HALAL INDIA PRIVATE LIMITED & ANR.
...PETITIONERS

VERSUS

THE STATE OF UTTAR PRADESH & ANR. .
..RESPONDENTS

AND IN THE MATTER OF

ASHUTOSH KUMAR SHUKLA ... APPLICANT

AN APPLICATION FOR INTERVENTION

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ADVOCATE ON RECORD

SYNOPSIS

Bharat, being secular by its very constitutional nature, cannot permit to have such kind of religion based food certification that too by a private organisations, which have no accountability towards the public at large, consuming such food item having Halal Certification. However, in absence of uniform and specific parameter and procedure of standardisation, quality of the food certified by these self-proclaimed certification agencies is also highly doubtful.

Money being earned by the above organisation in the name of illegal certification, is not only causing loss to the exchequer but the same is also harmful for the general public, who are consuming the food relying upon the illegal certification issued by these self-proclaimed organisations.

Shockingly in the Bharat, despite there being statutory body i.e. FSSAI, for laying down '***science based***' standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, ***to ensure availability of safe and wholesome food for human consumption***, several agencies are functioning

nationwide as parallel system for food certification. *Few of them are named hereinbelow;*

- Jamiat Ulama-I-Hind Halal Trust
- Halal India Private Limited
- Halal Certification Services India Private Limited
- Jamiat Ulama-E-Maharashtra – a State unit of Jamiat Ulama-E-Hind
- Global Halal Certification Services

It might be shocking that none of above noted self-proclaimed Halal certification agencies has any affiliation from the FSSAI, to issue certificate, which as per the unknown general public's belief, is akin to the certificate issued by FSSAI. Yet these organisations are functioning as a parallel system of food certification in the country without any statutory sanction, thereby making mockery of the system.

It is also clear that Halal certification does not represent the quality and standard of the food, rather it certifies about certain product being compliant of specified procedure as laid down in Quran, having no application of science based standard of

article of food as provided under The Food Safety and Standard Act, 2006.

Petitioner through the present Writ petition, which is mainly for the quashing of First Information Report without any investigation, not only trying to misuse the Writ jurisdiction of this hon'ble court as short circuit to Trial, but also using it as a tool to continue to operate as Halal certifying agency in violation of section 29 of The Food Safety and standard Act, 2006. Therefore, quashing of notification will adversely affect the fundamental right of the applicant.

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ASHUTOSH KUMAR SHUKLA ... APPLICANT
FLAT NO. F8/938,
SECTOR-3, VASUNDHARA,
GHAZIABAD, U.P.201012.

**AN APPLICATION FOR INTERVENTION ON BEHALF
OF THE APPLICANT ASHUTOSH KUMAR SHUKLA,
S/O. SH. RAJ KUMAR SHUKLA, R/O. FLAT NO. F8/938,
SECTOR-3, VASUNDHARA, GHAZIABAD, U.P.201012.**

To,
The Hon'ble Chief Justice of India
and His Companion Justices of the Supreme Court of India

**THE HUMBLE APPLICATION OF
THE APPLICANT ABOVENAMED**

MOST RESPECTFULLY SUBMITS:

1. That the instant petition has been filed by the petitioner
under Article 32 of the Constitution of India thereby

impugning the FIR No. 0332 of 2023 lodged at P.S. Hazratganj, District: Central Lucknow (Commissionerate Lucknow) and the Notification bearing no. FSDA/ Food/ 2023/6145 dated 18.11.2023 issued by the Office of the Commissioner, Food Safety and Drug Administration, Government of Uttar Pradesh (hereinafter referred to as 'Notification').

2. That the applicant herein is an advocate practising before this Hon'ble court as well as other courts in Delhi having residence at the address mentioned herein above.
3. That the application has preferred the instant application for intervention limited to the aspect of Notification bearing No. FSDA/ Food/ 2023/6145 dated 18.11.2023 issued by the Office of the Commissioner, Food Safety and Drug Administration, Government of Uttar Pradesh.
4. That in order to consolidate the laws relating to food and to establish the ***Food Safety and Standards Authority of India*** for laying down '***science based***' standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, ***to ensure availability of safe and wholesome food for human consumption*** and for matters

connected therewith or incidental thereto, Government of India had on 23.08.2006 enacted the legislation called “THE FOOD SAFETY AND STANDARDS ACT, 2006”.

5. As specifically provided under section 4 of the Act *ibid*,

“1. Central Government shall, by notification, establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Food Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

6. That as per section 4 *Ibid*, object of the said legislation as stated herein above was to **Establish the Food Safety and Standards Authority of India** (In short ‘FSSAI’).

However, the main function of the FSSAI, is for laying down ‘*science based*’ standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, *to ensure availability of safe and wholesome food for human consumption* and for matters connected therewith or incidental thereto.

7. That the above provision also impliedly provides that the following functions cannot be exercised anyone other than FSSAI.

- a. To establish '*science based*' standards for articles of food
- b. To regulate their manufacturing,
- c. To regulate the storage, distribution & sale,
- d. Regulate import and export,
- e. To ensure availability of safe and wholesome food for human consumption.

8. That the functions and duties of FSSAI as given under section 16 of the Act Ibid are given below;

"16. Duties and functions of Food Authority.–

(1) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

(2) Without prejudice to the provisions of sub-section (1), the Food Authority may by regulations specify–

(a) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;

(b) the limits for use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food;

(c) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management systems for food businesses;

(d) the procedure and the enforcement of quality control in relation to any article of food imported into India;

(e) the procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories;

(f) the method of sampling, analysis and exchange of information among enforcement authorities;

(g) conduct survey of enforcement and administration of this Act in the country;

(h) food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods; and

(i) the manner in which and the procedure subject to which risk analysis, risk assessment, risk communication and risk management shall be undertaken.”

9. That the section 23 and 24 of the act *ibid* provides about the labelling and representation as per regulation of the Act and of prohibition against misleading & deceiving advertisement of any food. Section 30 of the act confers the power to Commissioner of Food to implement food safety and standards. Pertinently, FSSAI has preferential effect on

all other food laws in Bharat as per Section 89 of the said Act.

10. That the right to decide the quality of food items lies only with the FSSAI under Section 29 of the said Act, who checks and certifies the quality of the food, and declare food good for human consumption as per relevant standards.
11. That in view of public health, in exercise of power conferred to the Commissioner of Food, FOOD SAFETY AND DRUG ADMINISTRATION, UTTAR PRADESH, under section 20 (2) (a) read with section 23, prohibited manufacturing, storage, distribution and sale of food products (except food items produced for export to the exporter) with Halal label, vide notification dated 18.11.2023.
12. As is clear from the notification itself, prohibition was imposed in exercise of statutory powers conferred upon the authority under the Act. However, the notice has been issued in view of the public health, which includes all the natives of the state of Uttar Pradesh, irrespective of their religion, faith, eating habits etc. Thus there exist no infirmity in the notification issued by the Respondent.

13. That the notification was issued due to illegally mentioning Halal Certificate on the label of certain products like dairy products, sugar, bakery products, peppermint oil, salty ready-to-eat savouries and edible oils etc. As per the act, only FSSAI is statutorily empowered to issue any certificate as regard to the standard of food for being safe for human consumption.

14. That admittedly, illegal certification is being done by several self-proclaimed certification agencies like the petitioner in the instant case. Shockingly in the Bharat, despite there being statutory body i.e. FSSAI, for laying down '*science based*' standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, *to ensure availability of safe and wholesome food for human consumption*, several agencies are functioning nationwide as parallel system for food certification. *Few of them are named hereinbelow;*

- Jamiat Ulama-I-Hind Halal Trust
- Halal India Private Limited
- Halal Certification Services India Private Limited

- Jamiat Ulama-E-Maharashtra – a State unit of Jamiat Ulama-E-Hind
- Global Halal Certification Services

15. It might be shocking that none of above noted self-proclaimed Halal certification agency has any affiliation from the FSSAI to issue certificate which is akin to the certificate issued by FSSAI. Yet these organisations are functioning as a parallel system of food certification in the country without any statutory sanction, thereby making mockery of the system. It is noteworthy that such parallel system has a annual business of almost Rs._____. An extract of balance sheet of the last financial year of the above organisations, is attached as **ANNEXURE-1**. Therefore, the money being earned by the above organisation in the name of illegal certification is not only causing loss to the exchequer but also harmful for the general public, who are consuming the food relying upon the illegal certification by self-proclaimed organisations.
16. It is submitted that in absence of uniform and specific parameter and procedure of standardisation, quality of the food is highly doubtful.

17. That apart from the aspect of illegal certification, loss to exchequer, quality of food, generalised Halal certification of food/article, is violative of Fundamental right of those, who does not wish to eat/use Halal. It is submitted that Bharat, being secular by its very constitutional nature, can not permit to have such kind of religion based food certification system that too through private organisations, having no accountability towards the public at large, which is consuming such food/article item having Halal Certification.

18. It is submitted that Bharat being a country which is home of approximately more than 200 million people, who only consume vegetarian diet, therefore, making it the largest population of vegetarians in the world, in comparison with the rest of the world. Thus, having such a big number of vegetarian population within, Halal certification of food product/article, which stands as synonyms for the 'Food for Muslims', is violative of fundamental rights of the majority, which professes other religions. In order to understand its far fetching impact over the population of other religion, it is necessary to understand the origine of word 'Halal' used

in Islamic book Quran. In Quran, through following verses,
it has been described what foods are known as halal and
haram (reference taken from

<http://parsquran.com/eng/subject/halal.htm>):

1- Chapter: 6 , Verse: 145

say: i do not find in that which has been revealed to me anything forbidden for an eater to eat of except that it be what has died of itself, or blood poured forth, or flesh of swine-- for that surely is unclean-- or that which is a transgression, other than (the name of) allah having been invoked on it; but whoever is driven to necessity, not desiring nor exceeding the limit, then surely your lord is forgiving, merciful

2- Chapter: 16 , Verse: 114

therefore eat of what allah has given you, lawful and good (things), and give thanks for allah's favor if him do you serve.

3- Chapter: 16 , Verse: 115

he has only forbidden you what dies of itself and blood and flesh of swine and that over which any other name than that of allah has been invoked, but whoever is driven to necessity, not desiring nor exceeding the limit, then surely allah is forgiving, merciful

4- Chapter: 16 , Verse: 116

and, for what your tongues describe, do not utter the lie, (saying) this is lawful and this is unlawful, in order to forge a lie against allah; surely those who forge the lie against allah shall not prosper

5- Chapter: 5 , Verse: 3

forbidden to you is that which dies of itself, and blood, and flesh of swine, and that on which any other name than that of allah has been invoked, and the strangled (animal) and that beaten to death, and that killed by a fall and that killed by being smitten with the horn, and that which wild beasts have eaten, except what you slaughter, and what is sacrificed on stones set up (for idols) and that you divide by the arrows; that is a transgression. this day have those who disbelieve despaired of your religion, so fear them not, and fear me. this day have i perfected for you your religion and completed my favor on you and chosen for you islam as a religion; but whoever is compelled by hunger, not inclining willfully to sin, then surely allah is forgiving, merciful

6- Chapter: 5 , Verse: 4

they ask you as to what is allowed to them. say: the **good things** are allowed to you, and what you have taught the beasts and birds of prey, training them to hunt-- you teach them of what allah has taught you-- so eat of that which they catch for you and mention the name of allah over it; and be careful of (your duty to) allah; surely allah is swift in reckoning.

7- Chapter: 5, Verse: 5

this day (all) the good things are allowed to you; and **the food of those who have been given the book** is lawful for you and your food is lawful for them; and the chaste from among the believing women and the chaste from among those who have been given the book before you (are lawful for you); when you have given them their dowries, taking (them) in marriage, not fornicating nor taking them for paramours in secret; and whoever denies faith, his work indeed is of no account, and in the hereafter he shall be one of the losers

8- Chapter: 6, Verse: 118

therefore eat of that on which allah's name has been mentioned if you are believers in his communications

9- Chapter: 6, Verse: 119

and what reason have you that you should not eat of that on which allah's name has been mentioned, and he has already made plain to you what he has forbidden to you-- excepting what you are compelled to; and most surely many would lead (people) astray by their low desires out of ignorance; surely your lord-- he best knows those who exceed the limits

10- Chapter: 6, Verse: 121

and do not eat of that on which allah's name has not been mentioned, and that is most surely a transgression; and most surely the shaitans suggest to their friends that they should contend with you; and if you obey them, you shall most surely be polytheists

11- Chapter: 5, Verse: 87

o you who believe! do not forbid (yourselves) the **good** things which allah has made lawful for you and do not exceed the limits; surely allah does not love those who exceed the limits

12- Chapter: 5, Verse: 88

and eat of the lawful and **good** (things) that allah has given you, and be careful of (your duty to) allah, in whom you believe

13- Chapter: 5, Verse: 90

o you who believe! **intoxicants** and games of chance and (sacrificing to) stones set up and (dividing by) arrows are only an uncleanness, the shaitan's work; shun it therefore that you may be successful

14- Chapter: 5 , Verse: 96

lawful to you is the game of the sea and its food, a provision for you and for the travellers, and the game of the land is forbidden to you so long as you are on pilgrimage, and be careful of (your duty to) allah, to whom you shall be gathered

15- Chapter: 10 , Verse: 59

say: tell me what allah has sent down for you of sustenance, then you make (a part) of it unlawful and (a part) lawful. say: has allah commanded you, or do you forge a lie against allah?

16- Chapter: 16 , Verse: 14

and he it is who has made the sea subservient that you may eat fresh flesh from it and bring forth from it ornaments which you wear, and you see the ships cleaving through it, and that you might seek of his bounty and that you may give thanks

17- Chapter: 7 , Verse: 31

o children of adam! attend to your embellishments at every time of prayer, and eat and drink and be not extravagant; surely he does not love the extravagant

18- Chapter: 23 , Verse: 51

o messengers! eat of the good things and do good; surely i know what you do

19- Chapter: 2 , Verse: 168

o men! eat the lawful and good things out of what is in the earth, and do not follow the footsteps of the shaitan; surely he is your open enemy

20- Chapter: 40 , Verse: 79

allah is he who made the cattle for you that you may ride on some of them, and some of them you eat.

19. That in the website of Jamiat Ulama-I-Hind Halal Trust, under the Tab (<https://www.jamiathalaltrust.org/products-which-require-halal-certification.php>) Products Which Require Halal Certification, it is been stated that; Halal certificate by a authority assures the consumer that the certified product:

- Neither is nor consist of or contains any part or matter of an animal that a **Muslim** is prohibited by **Shariah** to consume or that has not been slaughtered in accordance with shariah
- Does not contain anything which is considered to be impure according to **shariah**.
- Has not been prepared, processed or manufactured using instrument that was not free from anything impure according to shariah; and
- Has not in the course of preparation, processing or storage been in contact with or close proximity to any food that fails to satisfy paragraph (a) (b) or (c) or anything that is considered to be impure according to **Hukum shariah**.

20. That the logic behind Halal certification, as has been given in website is extracted herein below;

“India is known for its wide variety of religions. People from every major religion can be found. One such religion is Islam. Islam is the second biggest religion in India. Almost every state of India has Muslims in very big numbers. As per Muslim culture, food consumed should be Halal. Halal is an Islamic term which means lawful, permissible, and legal.

Halal foods are those which are found pure and legal. So, how to know which foods are halal and which are not. In Islam, it is mentioned that swine meat, meat from dead animals, wine, slaughter animals without mentioning Allah’s name intentionally, etc. When you are having your feast at your home, control over these norms is easy but when you are dining outside it is almost impossible to know whether the food is halal or not.

Today, people try different cuisine in various restaurants inside and outside the city. People travel to other cities for vacation, job, business, etc and they have to take food from outside. In such a case to authenticate whether food is Halal or not, a non-profit organization like Jamat Ulama-I-Hind Halal Trust provides Halal certificate to restaurants, hotels, airlines, hospitals, and food processing units. Halal trust certificate is recognized by many

countries like Malaysia, America, South Africa, Gulf countries, Australia and many more countries.

Halal certificate not only authenticates that food is pure but it has been prepared as per Islamic norms. We conduct an audit to check that the requested firm is complying with all norms as per lay down to get the halal certificate. Halal certificate is not only helpful for consumers but also helpful for traders. If a person wants to conduct business with Muslim countries, this certificate authenticates that their products are Halal and can be consumed without any worry. We have branches all most in every major city of India. You can visit us or can apply online through our website. After completing all the processes, you can extend your business reach.”

From the article above posted in the website of one such self-proclaimed Halal Certification agency, it is clear that it is a commercial activity and being promoted by placing it as a religious requirement to expand business. At first, they ask to eat Halal in the name of religion, and then they charge money from the production and manufacturing companies for Halal certification. It is an established parallel certification system having no statutory backing.

21. That the above recitations from the Quran & excerpt quoted above, depicts that Halal mainly prescribes procedure for consumption of non-vegetarian food by Muslims, which can not be made binding on the citizens of other faith as they are also being compelled to buy Halal certified products.

22. That in view of the above, it is clear that Halal certification does not represent the quality and standard of the food, rather it certifies about certain product being compliant of specified procedure as laid down in Quran, having no application of science-based standard of article of food as provided under The Food Safety and Standard Act, 2006.

23. That the Notification impugned in the captioned petition has been filed by a company incorporated under the provision of Companies Act, which is a company incorporated with the commercial objects.

24. That quashing of notification will amount to implied permission to such parallel certification agencies resulting into chaos, food safety hazardous and violation of section 29 of The Food Safety and standard Act, 2006.

25. That the petitioner through the present Writ petition, which is mainly for the quashing of First Information Report without any investigation not only trying to use the Writ jurisdiction of this hon'ble court as short circuit to Trial, but also using as a tool to continue to operate as Halal certifying

agency in violation of section 29 of The Food Safety and standard Act, 2006. Therefore, quashing of notification will adversely affect the fundamental right of the applicant.

26. It would be worthwhile to mention that millions of non-muslims use 'Jhatka' meat but in Halal the process of meat is completely different. Hence, quashing of notification will also amount to compulsion for entire population of the state other than muslims, to use Halal Certified food and other articles, which is against their religion belief violative of their fundamental rights.

27. That the Petitioner No. 1 while issuing Halal certificates against certification fee, is acting in violation of Section 29 of the Act, *ibid* and also interfering within the statutory functions of the FSSAI. That the HIPL- Halal Certification Scheme also contains provisions of penalty in similar manner as the Act *ibid* contains, which is clear interference with the power conferred to the FSSAI for enforcement.

Provisions of penalty are extracted herein below;

VIOLATIONS AND PENALTIES

19.1 In case of any violation of this scheme, the person involved or held accountable for the violation shall be subjected to all the procedures,

measures and penalties as per the law, without prejudice to the right to impose any severe penalty under other laws.

19.2 In case of any violation of this Scheme, following actions shall be taken to remove the violation and its consequences from the market:

19.3 The violating entity which is held accountable for offering the noncomplying product shall be directed to withdraw the noncomplying product from the market(s) for rectification, repatriation to the country of origin or destruction within a fixed period of time.

19.4 All necessary actions are taken for withdrawal, retention or destruction of these products or any other necessary measures for removal of the violation. The violating entity shall bear all emerging expenses.

19.5 Necessary actions apply to any one that use Halal product certificate or Halal India Standard mark without obtaining official permission, or if continue to use Halal product certificate or Halal India Standard mark or declaring its use through means of media despite the issuance of a decision to stop or suspend or cancel or forfeiting the license shall be reported to law agencies and legal actions shall be pursued.

28. That the instant petition is not maintainable for want of alternate remedy being available to the petitioner under Article 226 of Constitution of India. Petitioner instead of approaching to Hon'ble High Court of Judicature at Allahabad, which is competent jurisdictional court to entertain the instant petition, has straightaway approached this hon'ble court under article 32, as a short circuit method.
29. That the notification is must to ensure protection of right secured under Article 14 of Constitution of India, as the Halal certification on food/article has taken away the right

of applicant to use and consume particular product as per his own religious belief.

30. That the freedom secured under Article 25 of the Constitution of India is subject to public order, morality and health and is not overriding over the others right to freely profess, practise and propagate their religion.

31. That Article 26 does not confer any right to the petitioner to compel the applicant and/or public at large to eat/use Halal food and articles, as the Halal certification is being done for the food/article in generalised manner.

Drafted by: Ashutosh Kumar Shukla