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Part II—Sec. 3 (i)

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department Of Health and Family Welfare)

New Delhi, dated 5<sup>th</sup> May, 2011

**Notification**

**G.S.R.362 (E).**-Whereas Central Government proposes to make draft Food Safety and Standards Rules, 2011 in exercise of the powers conferred by section 91 of Food Safety and Standards Act, 2006 (34 of 2006), read with the sections 5, 7, 30, 36, 37, 38, 39, 40, 41, 43, 45, 46, 47, 68, 70, 71, 73, 74, 75, 76, 77, 78, 81, 82, 83 and 84, which have been notified by the Government of India vide SO 1855 (E) dated 29<sup>th</sup> July, 2010, and

Whereas these draft rules have been published at pages 1 to 68 in the Gazette of India Extraordinary Part II -Sec. 3 (i) dated 19<sup>th</sup> January, 2011 under the notification of Government of India in the Ministry of Health and Family Welfare no G.S.R 39 (E) dated the 19<sup>th</sup> January, 2011 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of period of thirty days from the date on which the copies of the said Gazette containing the said notification were made available to the public;

And whereas the copies of the Gazette were made available to the public on the 20<sup>th</sup> January, 2011.

And whereas objections and suggestions received from the public within the specified period on the said draft Rules have been considered by the Central Government.

Now therefore, in exercise of the power conferred by section 91 of the said Act, the Central Government hereby makes the following Rules namely,

# **Food Safety and Standards Rules, 2011**

## **CHAPTER 1**

### **General**

#### **1.1: Title and commencement**

**1.1.1:** These rules may be called the Food Safety and Standards Rules, 2011.

**1.1.2:** They shall come into force after three months from the date of their publication in the official Gazette.

#### **1.2: Definitions**

**1.2.1:** In these rules, unless the context otherwise requires,

1. "Act" means the Food Safety and Standards Act, 2006 (Act 34 of 2006) ;
2. "Adjudicating Officer" means the Adjudicating Officer appointed under sub-section (1) of section 68 of the Act.
3. "Advocate" means a person who is entitled to practice the profession of law under the Advocates Act, 1961 (25 of 1961)
4. "Appellate Tribunal" means the Food Safety Appellate Tribunal constituted under section 70 of the Act.
5. "Authorised Officer" means an officer authorized by the Food Authority referred in the sub-section (5) of section 47 of the Act.
6. "Inquiry" means the inquiry referred to in section 68.

7. "Licensing Authority" means the Designated Officer appointed under section 36 of the Act for the local area and includes any other officer so appointed for the purpose of granting license by the Commissioner of Food Safety.
8. "Notified laboratory" means any of the laboratories notified by the Food Authority under sub-sections (1) and (2) of section 43 of the Act.
9. "Presiding Officer" means a person appointed as Presiding Officer of the Appellate Tribunal under section 70 of the Act.
10. "Referral laboratory" means any of the laboratories established and/or recognized by the Food Authority by notification under sub section (2) of section 43 of the Act.
11. "Registrar" means the Registrar of the Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorized by the Presiding Officer to function as Registrar
12. "Registry" means the registry of the Appellate Tribunal
13. "Rules" means the Food Safety and Standards Rules, 2011.

## **CHAPTER 2**

### **Enforcement structure and procedures**

#### **2.1 - Qualification and duties**

##### **2.1.1: Commissioner of Food Safety:**

1. **Qualification:** No person below the rank of "Commissioner and Secretary" to State Government shall be eligible to be appointed as the Commissioner of Food Safety.
2. **Powers and Duties:** Powers and duties of the Commissioner of Food Safety shall be as provided in the section 30 (2) of Food Safety and Standards Act, 2006.

##### **2.1.2: Designated Officer**

###### **1. Qualification**

- i. The Designated Officer shall be a whole time Officer, not below the rank of Sub-Divisional Officer or equivalent and shall possess a minimum of bachelors' degree in Science with chemistry as one of the subjects or at least one of the educational qualifications prescribed for the Food Safety Officer under these Rules.
- ii. He Shall Undergo training as may be specified by the Food Authority, within a period of six months from the date of his appointment as Designated Officer.
- iii. (a) persons having been appointed as food Inspector having qualification prescribed under the PFA Rules, 1955 or as Local Health Authority, shall be eligible for appointment as Designated Officer, subject to fulfilling such other conditions as may be prescribed for the post of Designated Officer by the State Government.

(b) At the time of commencement of these rules, the post of designated Officer is held by any other officer of equivalent rank as additional charge basis such other officer shall continue to hold such additional charge till such time a whole time Designated Officer is appointed or for a period of one year whichever is earlier.

## **2. Powers and duties:**

- i. The powers and duties of the Designated Officer shall be as mentioned in section 36 (3) of FSS Act, 2006.
- ii. The Designated officer shall function under overall supervision of collector/ District Magistrate of the District.
- iii. The Designated Officer shall, in addition to the powers specified in Section 36 (3) of FSS Act, 2006, also ensure the refund of fee for analysis paid by the purchaser as per the provision of Section 40 (1), besides the cost of the sample
- iv. The Designated Officer shall ensure timely disposal of redundant samples, in the manner notified for the seized materials, by the Commissioner of Food Safety.
- v. Without prejudice to anything contained in the aforesaid Rules, the Designated Officer shall have all administrative powers which may include suspension, cancellation or revocation of the license of the Food Business Operator in case any threat or grave injury to public, has been noticed in the report of the Food Analyst,

Provided that while taking such administrative action the procedure described in the Act and Regulations shall be followed.

### **2.1.3: Food Safety Officer**

1. **Qualification:** Food Safety Officer shall be a whole time officer and shall, on the date on which he is so appointed, possesses the following:
  - i. a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-Chemistry or Microbiology or Masters Degree in Chemistry or degree in medicine from a recognized University, or
  - ii. any other equivalent/recognized qualification notified by the Central Government, and
  - iii. has successfully completed training as specified by the Food Authority in a recognized institute or Institution approved for the purpose.

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule

2. On the date of commencement of these Rules, a person who has already been appointed as a Food Inspector under the provisions of Prevention of Food Adulteration Act, 1954, may perform the duties of the Food Safety Officer if notified by the state/Central government if the officer fulfils such other conditions as may be prescribed for the post of Food Safety Officer by the State Government.

3. State Government may, in cases where a Medical Officer of health administration of local area has been performing the function of food Inspector under the Prevention of Food Adulteration Act, 1954, assign the powers and duties of Food Safety Officer to such Medical Officer in charge of health administration of that area.

Provided further that the persons appointed under clauses 2 and 3 above, shall undergo a specialized training laid down by the Food Authority within a period of two years from the commencement of these rules.

#### 4. **Powers and Duties:**

- i. Without prejudice to the powers conferred on him under section 38 of the Act, where the Food Safety Officer is of the opinion or he has reason(s) to be recorded in writing that in the given situation it is not possible to comply with the provision of section 38 (1) (c) or the proviso to section 38(1) for reasons like non availability of the Food Business Operator, the Food Safety Officer may seize the adulterant or food which is unsafe or sub-standard or mis-branded or containing extraneous matter, may seal the premises for investigation after taking a sample of such adulterant or food for analysis.
- ii. Where the Food Safety Officer is of the opinion or he has reason(s) to believe that any person engaged in selling, handling or manufacturing any article of food is suffering from or harbouring the germs of any infectious disease, he may cause such person to be examined by a qualified medical professional duly authorized by the Designated Officer.

Provided that where such person is a female, she shall be examined by a qualified lady medical professional duly authorized by the Designated Officer.

If on such examination, the qualified medical professional certifies that such person is suffering from any such disease, the Food Safety Officer may by order in writing under intimation to the Designated Officer, direct such person not to take part in selling or manufacturing any article of food.

- iii. Furthermore, it shall be the duty of the Food Safety Officer
  - a) To inspect, as frequently as may be prescribed by the Designated Officer, all food establishments licensed for manufacturing, handling, packing or selling of an article of food within the area assigned to him;
  - b) To satisfy himself that the conditions of licenses are being complied with by each of the Food Business Operators carrying on business within the area assigned to him and report to the Designated Officer;
  - c) To procure and send for analysis if necessary, samples of any article of food which he has reason to believe or on the basis of information received including from a purchaser are being manufactured, stocked or sold or exhibited for sale in contravention of the provisions of the Act, or rules and regulations framed thereunder
  - d) To draw samples for purposes of surveillance, survey and research, which shall not be used for prosecution



- e) To investigate any complaint which may be made to him in writing in respect of any contravention of the provisions of the Act, or rules framed thereunder;
- f) To maintain a data base of all Food Businesses within the area assigned to him;
- g) To recommend to Designated Officer issue of improvement notices to the Food Business Operator whenever necessary;
- h) To maintain a record of all inspections made and action taken by him in the performance of his duties, including the taking of samples and seizure of stocks, and to submit copies of such records to the Designated Officer as directed in this regard;
- i) To make such inquiries and inspections as may be necessary to detect the manufacture, storage or sale of articles of food in contravention of the Act or rules framed thereunder;
- j) To stop and inspect any vehicle suspected to contain any unsafe food or food which does not comply with the provisions of this Act and rules, intended for sale or delivery for human consumption;
- k) To recommend to the Designated Officer giving specific grounds, suitable action in regard to licenses issued to any Food Business Operator, if on inspection the Food Safety Officer finds that the Food Business Operator had violated the conditions for grant of license;
- l) To carry out food safety surveillance to identify and address the safety hazards

- m) To respond to incidents of food poisoning in his area and to send report to and assist the Designated Officer to enable him to initiate corrective action;
- n) To facilitate preparation of Food safety plans for Panchayats and Municipalities in accordance with the parameters and guidelines given in schedule IV of Chapter 3 of Regulations.
- o) To detain imported packages which are suspected to contain articles of food, the import or sale of which is prohibited;
- p) To coordinate with the Food Business Operators within his area of operation and facilitate the introduction of food safety systems by the Food Business Operators.
- q) To perform such other duties, as may be entrusted to him by the Designated Officer or Food Safety Commissioner having jurisdiction in the local area concerned.

#### **2.1.4: Food Analyst**

1. **Qualification:** A person shall not be qualified for appointment as Food Analyst under the Act unless she/he ;-

- i. Holds a Master's degree in Chemistry or Biochemistry or microbiology or Dairy Chemistry or Food Technology, Food and Nutrition or holds Bachelor of Technology in Dairy/Oil or holds degree in Veterinary Sciences from a university established in India by law or is an associate of the Institution of Chemists (India) by examination in the section of Food Analysts conducted by the Institution of Chemists (India) or any other equivalent qualification recognized and

notified by the Central government for such purposes and has not less than three years experience in the analysis of food; and

- ii. Has been declared qualified for appointment as a Food Analyst by a board appointed and notified by the Authority

Notwithstanding anything contained above,

- (a) any person who has been declared qualified for appointment as Public Analyst by the board constituted under Prevention of Food Adulteration Act, 1954 shall also be eligible for holding the post of Food Analyst.
  - (b) any person who is a Public Analyst under the provisions of Prevention of Food Adulteration Act, 1954 on the date of commencement of these Rules, may hold office of the Food Analyst subject to the terms and conditions of service applicable to such person .
- iii. A person appointed as Food Analyst shall undergo all specialized training programmes specified by the Food Authority periodically.

## **2. Duties:**

- i. The Food Analyst shall analyse or cause to be analysed the article of food sent to him for analysis. In analyzing the article of food, the Food Analyst shall follow such instructions and shall adhere to such procedure as adopted by the Food Authority from time to time. The report of analysis shall be signed by the Food Analyst

- ii. After completion of analysis of article of food, the Food Analyst shall send his report to the Designated Officer, the Purchaser of article of food, as the case may be, in **Form VII A.**

## **2.2 - Procedure of taking extracts of documents and matters connected therewith**

### **2.2.1: Manner of taking extracts**

1. Where the Food Safety Officer has seized any books of account and other relevant documents in exercise of powers conferred upon him under sub-section (6) of section 38 of the Act, he shall return the same to the person from whom they were seized within a period not exceeding thirty days from the date of such seizure

Provided that before returning the books of account and other relevant documents, the Food Safety Officer shall be entitled for copies thereof or extracts there from, as the case may be.

2. On receipt of such communication from the Food Safety Officer, the person from whom the books of account and documents were seized shall provide the copies or extracts as the case may be, duly authenticated by the Food Business Operator.

3. The extracts shall be taken by the Food Safety Officer or by any person authorized by him.

4. The person making the extracts shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of making extracts.

5. The person making extracts shall not make any marking on any record or paper.

### **2.2.2 Affidavit**

1. The extracts or the copies referred to in **Rule 2.2.1** above, shall be initialed on each page of such extracts or copies by the person from whom the books of account and other documents were seized and such extracts or copies so authenticated shall be provided to the Food Safety Officer, accompanied by an Affidavit in **Form I** of the person from whom the books of account and other documents were seized, certifying the authenticity of such extracts or copies.

### **2.3 - Seizure of articles of food by the Food Safety Officer and matters connected therewith**

**2.3.1.: Form of receipt for article of food seized by a Food Safety officer**– For every article of food seized under clause (b) of sub-section 1 of Section 38 of the Act, a receipt in **Form II** shall be given by the Food Safety Officer to the person from whom the article of food was seized.

**2.3.2 Form of order/bond not to dispose of the stock:** Where the Food Safety Officer keeps any article of food in the safe custody of the Food Business Operator under clause (c) of sub-section (1) of Section 38 of the Act.

1. he shall, after affixing the seal, on the article of food, make an order to the Food Business Operator in **Form III** and the Food Business Operator shall comply with such an order, and
2. he may require the Food Business Operator to execute a bond in **Form IV.**

## **2.4: Sampling and Analysis**

### **2.4.1: Procedure for taking sample and manner of sending it for analysis –**

The Food Safety Officer while taking sample of food for analysis under clause A of Sub Section 1 of Section 38 and Section 47 (except 47 (5)) of the Act, shall also follow the procedure specified hereunder,;-

1. shall call one or more witnesses at the time of lifting of the samples
2. Obtain the signatures from the witnesses in all the forms and documents prepared
3. Serve the notice in **Form V A** to the business operator then and there
4. in case the food business operator discloses that the product has been obtained from the manufacturer, the distributor or supplier, a notice shall also be given to such manufacturer, distributor or supplier,
5. in case where the sample is drawn from an open container, the person drawing the sample shall also draw a sample from a container in original condition of the same article bearing the same declaration, if such container is available, and intimate the same to the Food Analyst.
6. Where a Food Safety Officer or the purchaser takes a sample of an article of food for analysis, he shall pay, the cost of such sample, to the person from whom the sample is taken, calculated at the rate at which the article is sold to the public.
7. Sample of article of Food for the purpose of analysis shall be taken in clean dry bottles or jars or in other suitable containers which shall be closed to prevent leakage, evaporation or to avoid entrance of moisture in case of dry substance and shall be carefully sealed.

Provided, if a sealed package marketed by the manufacturer/Food Business Operator is taken as sample, further sealing in separate containers will not be required.

8. All bottles or jars or other containers containing the samples for analysis shall be properly labeled and the parcel shall be properly addressed. The label on any sample of food sent for analysis shall bear

I. Code number of the sample

II. Name of the sender with his official designation

III. Date and place of collection

IV. Nature of articles being sent for analysis

V. Nature and quantity of preservative, if any, added to the sample.

9. The samples will be packed and sealed in the manner prescribed hereunder:

i. Sample shall be divided into four parts or take four already sealed packages and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken on the label mentioned in 2.4.1.8

ii. The stopper/cap shall first be securely fastened so as to prevent leakage of the contents in transit

iii. The bottle, jar or other container shall then be completely wrapped in fairly strong thick paper. The ends of the paper shall be neatly folded in and affixed by means of gum or other adhesive.

- iv. A paper slip of the size that goes round completely from the bottom to top of the container, bearing the signature of the Designated Officer or any officer authorized by Food Safety commissioner and code number of the sample, shall be pasted on the wrapper. The signature or thumb impression of the person from whom the sample has been taken, shall be affixed in such a manner that the paper slip and the wrapper both carry a part of this signature or the thumb impression

Provided that in case the person from whom the sample is taken refuses to affix his signature or thumb impression, the signature or thumb impression of one or more witnesses shall be taken in the same manner

Provided further that in case the paper slip containing the signature of the Designated Officer is of such a size that it does not cover completely from the bottom to the top of the container, the Food Safety Officer shall affix additional sheet/s of paper to the slip containing the signature of the Designated Officer so as to cover the container completely and the Food Safety Officer shall affix his signature on each of the joints for the purpose of identification.

Provided also further that where the purchaser or an Authorized Officer draws the sample no such paper slip shall be required to be affixed.

- v. The paper cover shall be further secured by means of strong twine or thread both above and across the bottle, jar or other container and the twine or thread shall then be



fastened on the paper cover by means of sealing wax on which there shall be distinct and clear impression of the seal of the sender, of which one shall be at the top of the packet, one at the bottom and the other two on the body of the packet. The knots of the twine or thread shall be covered by means of sealing wax bearing the impression of the seal of the sender.

10. The containers of the samples shall be dispatched forthwith in the following manner

- i. the sealed container of one part of the sample for analysis along with memorandum in **Form VI** shall be sent in a sealed packet to the Food Analyst under appropriate condition to retain the integrity of the sample.
- ii. the sealed container of the second and third parts of the sample and two copies of memorandum in **Form VI** shall be sent to the Designated Officer by any suitable means and
- iii. the sealed container of the remaining fourth part of the sample and a copy of memorandum in **Form VI** shall be sent to an accredited laboratory along with fee prescribed by the Authority, if so requested by the Food Business Operator, under intimation to the Designated Officer

Provided that fourth part also shall be deposited with Designated Officer if Food business Operator does not request to send the sample to an accredited lab.

- iv. for lifting a sample for testing microbiological parameters, the method of lifting sample, type of container, temperature to be maintained, method of transportation and any other

condition to maintain the integrity of the sample shall be notified by the Food Authority from time to time.

11. The Food Safety Officer shall send to the Food Analyst to whom the sealed container of first part of the sample was sent, a copy of the memorandum and specimen impression of the seal used to seal the packet and the same shall be sent forthwith.
12. The Food Safety Officer or the Authorized Officer, while taking sample for the purpose of analysis under the provisions of the Act except in the case where the sample is meant for microbiological testing/analysis, may add to the sample, a preservative as may be prescribed from time to time in the regulations for the purpose of maintaining it in a condition suitable for analysis.
13. Whenever any preservative is added to a sample, the nature and quantity of the preservative added shall be clearly noted on the label to be affixed to the container.
14. The quantity of sample of food to be sent to the Food Analyst / Referral lab for analysis shall be as specified in regulations by the Food Authority:

**Explanation:** Foods sold in packaged condition (sealed container or package) shall be sent for analysis in its original condition without opening the package as far as practicable, to constitute approximate quantity along with original label. In case of bulk packages, wherever preservatives are to be added as per the requirement under these rules, the sample shall be taken after opening sealed container or package in the presence of the Food Business Operator or in case of his refusal, in the presence of one

or more witnesses and the contents of the original label shall also be sent along with the sample for analysis. However, such samples shall not be used for microbiological analysis

15. Where food is sold or stocked for sale or for distribution in sealed containers having identical label declaration, the contents of one or more of such containers as may be required to satisfy the quantity prescribed, shall be treated to be a part of the sample.
16. The quantity of sample of food packaging material to be sent to the Food Analyst /Director of referral lab for analysis shall be as specified below:-

Name of food packaging material	Approximate quantity/surface area to be supplied
1. Food packaging material when sample is taken from manufacturer.	8 x 1000 x 9 sq.cm. surface area.”
2. When sample is taken from small consumer packages.	Complete packaging material used for one container.

17. Notwithstanding anything contained in **Rule 2.4.1 (15)** the quantity of sample sent for analysis shall be considered as sufficient unless the Food Analyst reports to the contrary.

For the purpose of the **Rule 2.4.1**, if the sample is taken for Surveillance purposes, the procedure illustrated under this rule shall not be followed

#### **2.4.2. Analysis of food samples by Food Analyst**

1. On receipt of the package containing a sample of food for analysis, the Food Analyst or an officer authorized by him shall compare the seals on the container and the outer cover with specimen impression of seal received separately and shall note the condition of the seal thereon.
2. Food laboratories including mobile food laboratories wherever required, may be established or notified by the Central/State Government for the purpose of testing food samples received from the Food Safety Officer/purchaser.
3. If the sample container received by the Food Analyst is found to be in broken condition or unfit for analysis, he shall, within a period of seven days from the date of receipt of such sample, inform the Designated Officer about the same and request him to send the second part of the sample for analysis.
4. On receipt of requisition from the Food Analyst pursuant to **Rule 2.4.2 (3)** the Designated Officer, shall by the succeeding working day, dispatch to the Food Analyst for analysis one part of the samples sent to him by the Food Safety Officer.
5. On receipt of the sample, the Food Analyst shall analyse or cause to be analysed the sample and send the analysis report mentioning the method of analysis. The analysis report shall be as per **Form VII A** and four copies of the same shall be sent to the Designated Officer under whose jurisdiction the Food Safety Officer functions or the purchaser of article of food. The analysis report shall be signed by the Food Analyst and such report shall be sent within fourteen days of the receipt of the sample by the Food Analyst.

6. The Designated Officer shall keep two copies of analysis report for further action, one copy shall be sent to Food Safety Officer for record and one copy to Food business Operator from whom the sample was taken.

Provided that in case the sample cannot be analysed within fourteen days of its receipt, the Food Analyst shall inform the Designated Officer and the Commissioner of Food Safety giving reasons and specifying the time to be taken for analysis.

7. The manuals of the method of analysis, as amended/adopted by the Authority from time to time including AOAC/ISO/Pearson's/Jacob/IUPAC/Food Chemicals CODEX/BIS/Woodmen/Winton-Winton/Joslyn, shall be used for analyzing the samples of food articles. However, in case the method for analyzing any parameter is not available in these manuals, a validated method of analysis prescribed by internationally recognized/analytical/regulatory agencies, shall be adopted

#### **2.4.3: Action by Designated Officer on the report of Food Analyst.**

If, after considering the report, the Designated Officer is of the opinion for reason(s) to be recorded in writing, that the report delivered by the Food Analyst under **Rule 2.4.2 (5)** is erroneous, he shall forward one of the parts of the sample kept by him to referral laboratory, for analysis and if the analysis report of such referral laboratory is to the effect that the article of food is unsafe or sub-standard or mis-branded or containing extraneous matter, the provisions of **Rule 3.1** shall, so far as may be, apply.

#### **2.4.4: Purchasers may have the food analysed**

1. A Purchaser of food article may, if he so desires, have the article analysed by the Food Analyst according to the procedure notified by the Food Authority.
2. If the Purchaser desires to have the food article purchased by him to be analysed by the Food Analyst, he shall give a notice in writing, then and there, in **Form V B** of his intention to have it so analysed to the person from whom he has purchased the food article.
3. The provisions of **Rule 2.4.1** shall *mutatis mutandis* apply except 2.4.1 (9) (i, iv) , 10 (ii, iii), 11, and 16 and with the modification that the samples shall be divided into two parts or two already sealed packages will be taken each of which will be marked and sealed or fastened up in such a manner as its nature permits and the signature or thumb impression of the person from whom the sample has been taken or a witness will be affixed on the label mentioned in 2.4.1 (8). The purchaser will forward one part of the sample to the Food Analyst and the other to the Designated Officer which can be used in the event of appeal by the Food Business Operator against the finding of the report of the Food Analyst.
4. The Purchaser shall pay the prescribed fee to the Food Analyst for carrying out the analysis.
5. The Food Analyst shall send to the Purchaser his report on analysis of the article of food and if the finding of the report is to the effect that the article of food is adulterated/misbranded/contaminated or does not conform to the standards prescribed under the Act or the Regulations, the Food Analyst shall also send his report in triplicate, to the Designated Officer of the area in which the article of food was purchased, besides sending a copy of the Report to the Purchaser.

6. The report of the Food Analyst shall be sent within 14 days of the receipt of the article of food for analysis and such report shall be in **Form VII A.**

#### **2.4.5: Food business operator's right to have the food analysed**

1. In case the Food business operator from whom the sample has been taken or the person whose name and address and other particulars have been disclosed under **Rule 2.5** of these rules, desires to have the fourth part of the sample analysed, he shall request the Food Safety Officer in writing to send the sample to any NABL accredited/FSSAI notified laboratory for analysis under intimation to the Designated Officer.
2. The Food Safety Officer shall send the sample to a NABL accredited/FSSAI notified laboratory, under intimation to the Designated Officer forthwith, in the manner prescribed under **Rule 2.4.1.**

Provided that the cost of testing by the accredited lab will be borne by the Food Business Operator or the person identified under **Rule 2.5.** The payment shall be made by the Food Business Operator through Bank draft or online transfer or treasury chalan or any other suitable means as specified by the Designated Officer.

Provided further that the Accredited lab where the Food Safety Officer will send the sample, should be within the state or the neighboring state wherever available

3. The Food Analyst in-charge of the accredited laboratory shall analyse the sample within fourteen days from the date of the receipt of the sample

Provided that in case the sample cannot be analysed within fourteen days from the date of its receipt, the Food Analyst/in-charge of the accredited laboratory, shall inform the Designated Officer and the Commissioner of Food Safety giving reasons and specify the time to be taken for analysis.

4. The Food Analyst shall send four copies of the analysis report to the Designated Officer, in the proforma given in **Form VII A**, indicating the method of analysis.

#### **2.4.6: Appeal to the Designated Officer**

1. When an appeal as provided under sub-section 4 of section 46 is preferred to the Designated Officer by the Food Business Operator against the report of the Food Analyst, the Designated Officer, shall if he so decides, within thirty days from the receipt of such appeal after considering the material placed before him and after giving an opportunity to Food Business Operator to be heard shall forward one part of the sample to the referral lab, such appeal shall be in **Form VIII** which shall be filed within 30 days from the date of the receipt of the copy of the analysis report from the Designated Officer. Report of the referral laboratory shall be final in this regard.

The Designated Officer shall forward one part of the the sample under appropriate condition as specified for the product including transport, to retain the integrity of the sample. The cost of analysis of the sample shall be borne by the Food Business Operator The remaining samples will also be safely kept under appropriate conditions to prevent deterioration.

#### **2.5: Nomination by the company in the prescribed proforma**

**2.5.1:** The company which is having different establishments or branches, units, any establishment or branch shall inform the



Licensing authority in **Form IX**, the particulars relating to the concerned head or the person in-charge of such establishment, branch, unit, with due certification that the concerned person has been so nominated for the purposes of the section 66 of the Act and regulations made under section 31 of the Act.

**2.5.2:** The Company shall also intimate to the Licensing Authority, as and when any change occurs in the nomination given in **Rule 2.5.1** above forthwith, in **Form IX**

### **CHAPTER 3**

#### **ADJUDICATION AND APPEAL TO TRIBUNAL**

##### **3.1: Adjudication proceedings**

###### **3.1.1: Holding of inquiry**

1. On receipt of the copy of the report of Food Analyst in **Form VII A** from the Designated Officer, the person from whom the sample was taken or the persons, whose names and addresses and other particulars have been disclosed under **Rule 2.5** of these rules or wholesaler or manufacturer has preferred an appeal against the findings of the report of the Food Analyst before the Designated Officer in terms of sub-section (4) of section 46 of the Act and the same has been dismissed, or the referral laboratory has, pursuant to the reference made by the Designated Officer in terms of sub-section (4) of section 46 of the Act confirmed the findings of the Food Analyst in his report, or if no appeal has been preferred, the Designated Officer shall examine the case on the basis of the sections under which the person has been charged as to whether the contravention is punishable with imprisonment or the same is

punishable with fine only under the Act. However, if no contravention is established and the sample conforms to the requirement of FSS regulations, the same will be communicated to the Food Business Operator immediately.

2. If the Designated Officer decides that such contravention is not punishable with imprisonment but only with fine under the provisions of the Act, he shall cause and authorize the Food Safety Officer to file with the Adjudicating Officer an application for adjudication of the offence alleged to have been committed by the person from whom the food sample has been taken or the person whose name and address and other particulars have been disclosed under **Rule 2.5** of these rules and/or the seller or manufacturer of the food item in respect of which the report has been received.
3. On receipt of the communication from the Designated Officer authorizing the filing of the adjudication application, the Food Safety Officer shall file the application for adjudication with the Adjudicating Officer for adjudication of the offence/contravention alleged to have been committed.
4. On receipt of the application for adjudication from the Food Safety Officer, the Adjudicating Officer shall commence the inquiry proceedings.
5. The Adjudicating Officer shall have power to hold an inquiry for purpose of adjudicating offences punishable under sections 50, 51, 52, 53, 54, 55, 56, 57, 58, 64, 65, 66 and 67 of the Act.

6. For holding an inquiry for the purpose of adjudication under section 68 of the Act as to whether any person(s) has/have committed contravention of any of the provisions of the Act referred to in **Rule 3.1.1.(5)** herein or the rules or regulations in respect of which the offence is alleged to have been committed, the Adjudicating Officer shall, in the first instance, issue a notice to such person or persons giving him or them an opportunity to make a representation in the matter within such period as may be specified in the notice (not being less than 30 days from the date of service thereof).
7. Every notice under **Rule 3.1.1.(6)** to any such person shall indicate the nature of offence alleged to have been committed by him or them, the section(s) of the Act alleged to have been contravened, and the date of hearing of the matter. A copy of the report of the Food Analyst shall also be annexed to such notice.
8. On the date fixed for hearing, the Adjudicating Officer shall explain to the person or persons proceeded against or to his authorized representative, the offence alleged to have been committed by such person, indicating the provision of the Act, rules or regulations in respect of which the contravention is alleged to have taken place.
9. The Adjudicating Officer shall then give an opportunity to such person or persons to produce such documents or evidence as he may consider relevant to the inquiry and if necessary the hearing may be adjourned to a future date

Provided that the notice referred to in **Rule 3.1.1. (6)** may, at the request of the person concerned, be waived.

Provided further that the Adjudicating Officer shall pass the final order within 90 days from the date of first hearing mentioned in **Rule 3.1.1 (8)** above.

10. The State Government may appoint a presenting officer from amongst the panel of advocates of the court of local jurisdiction, in an inquiry under this rule.
11. While holding an inquiry under this rule, the Adjudicating Officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the Adjudicating Officer may be useful for or relevant to, the subject matter of the inquiry.
12. If any person fails neglects or refuses to appear as required by **Rule 3.1.1 (6&7)** before the Adjudicating Officer, the Adjudicating Officer may proceed with the inquiry in the absence of such person, after recording the reasons for doing so.

### **3.1.2: Order of the Adjudicating Officer and matters relating thereto**

1. If, upon consideration of the evidence produced before the Adjudicating Officer, the Adjudicating Officer is satisfied that the person or persons or any of them against whom the inquiry has been conducted, has become liable for penalty and/or any suitable administrative action under any of the sections referred to in **Rule 3.1.1. (5)** he may, by order in writing, impose such penalty as he thinks fit, in accordance with the provisions of the relevant section or sections of the Act.
2. If however, the Adjudicating Officer is satisfied that the person or persons or any of them against whom the inquiry has been conducted for the contravention of provisions of the Act, has or have not been proved beyond doubt, the Adjudicating Officer shall dismiss the case.
3. Every order made under **Rule 3.1.2. (1)** shall specify the provisions of the Act or the rules or the regulations in respect of which the offence has taken place and shall contain brief reasons for such decision. While imposing monetary penalty, the Adjudicating Officer shall have due regard to the provisions of section 49 of the Act. Such penalty will be remitted in the form of a crossed demand draft drawn on a nationalized bank in favour of "Adjudicating Officer, .....District" payable at the station where the Adjudicating officer is located
4. Every such order shall be dated and signed by the Adjudicating Officer.

5. The Adjudicating Officer shall send a copy of the order made under **Rule 3.1.2** to the person or persons against whom the inquiry was conducted and the Food Safety Officer who has filed the application for adjudication.
6. A notice or an order issued under these rules shall be served on the person or the persons against whom the adjudication proceedings were held or inquiry has been conducted, in any of the following manner:
  - i. by delivering or tendering it to that person or his duly authorized representative or
  - ii. by sending it to the person by registered post with acknowledgement due to the address of his place of residence or his last known place of residence or the place where he carried on or last carried on, business or personally works or last worked for gain or
  - iii. if it cannot be served in the manner specified under **Rule 3.1.2 (6) (i) or (ii)** by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided or carried on business or personally works or has worked for gain and written report thereof should be witnessed by two persons.

## **3.2: Appellate Tribunal**

### **3.2.1 Qualification and terms of office of Presiding Officer of an Appellate Tribunal**

1. No person shall be qualified for appointment as a Presiding Officer of an Appellate Tribunal unless he is or has been a District Judge

and has not attained the age of 65 years on the date of appointment.

2. The Presiding Officer shall be selected by the State Government in which the Appellate Tribunal is located. The selection panel shall consist of three persons, one being a serving Judge of the High Court in which the Appellate Tribunal is located, the Law Secretary of the State Government and the Secretary of the concerned department of the State Government.
3. The panel's recommendation shall be decided by the majority of the members constituting the panel. The panel shall send its recommendation to the State Government, which will then take such steps as may be necessary to notify the appointment of the Presiding Officer. If there are more than one candidate which the panel has recommended for appointment, the panel shall rank the candidates in the order of their merit.

### **3.2.2: Terms and conditions of service of Presiding Officer**

1. **Term of office:** The Presiding Officer of the Appellate Tribunal shall hold office for a term of five years from the date on which he assumes office or until he attains the age of 65 years, whichever is earlier.

**Filling of vacancy:** If for reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of the Appellate Tribunal, then the Central Government or the State Government, as the case may be, shall appoint another person in accordance with the provisions of the Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy occurred.

2. **Salary and allowances of Presiding Officer:** The Presiding Officer of Appellate Tribunal shall be paid such salary as admissible to a serving District Judge of the State in which the Appellate Tribunal is located.

Provided that if the Presiding Officer is in receipt of any retirement benefit by way of pension, gratuity, employer's contribution to Contributory Provided Fund, etc. the pay of such Presiding Officer shall be reduced by the gross amount of pension or employer's contribution to the Contributory Provided Fund or any other form of retirement benefit, if any, drawn or to be drawn by him.

- i. **Travelling Allowance:** The Presiding Officer while on tour or on transfer (including the journey undertaken to join the Appellate Tribunal or on the expiry of his term with the Appellate Tribunal to proceed to his home town) shall be entitled to traveling allowance, daily allowances, transportation of personal effects and other similar matters at the same scale and at the same rates as are applicable to a District Judge of the State in which the Appellate Tribunal is located.
- ii. **Leave Travel Concession:** The Presiding Officer shall be entitled to Leave Travel Concession at the same rates and at the same scale as are applicable to a District Judge of the State in which the Appellate Tribunal is located.
- iii. **Conveyance:** The Presiding Officer shall be entitled to a staff car as applicable to a District Judge.
- iv. **Facilities of Medical Treatment:** The Presiding Officer of the Appellate Tribunal shall be entitled to medical treatment and hospital facilities as provided in the Service Rules as are



applicable to a District Judge in the state in which the Appellate Tribunal is located.

3. **Resignation and removal:** The Presiding Officer of the Appellate Tribunal may, by a notice in writing under his hand addressed to the Central Government or the State Government, as the case may be, which has appointed him, resign from his office. The Central Government or the State Government, as the case may be, remove from office, the Presiding Officer of the Appellate Tribunal, who

- i. has been adjudged as insolvent
- ii. has been convicted of an offence which in the opinion of the Central Government or the State Government, as the case may be, involves moral turpitude
- iii. has become physically or mentally incapable of acting as the Presiding Officer
- iv. has acquired such financial or other interest as is likely to affect prejudicially his functions as the Presiding Officer
- v. has so misbehaved or abused his position as to render his continuance in office prejudicial to the public interest.

Provided however that the Presiding Officer shall not be so removed from his office for reasons mentioned in iv and v except by an order of the Central Government or the State Government, as the case may be, after an inquiry made by a serving or retired Judge of a High Court in which the Presiding Officer has been informed of the charges against him and given a reasonable opportunity of being heard in respect of the charges and the person conducting the enquiry files a report that the Presiding Officer ought to be removed.

Whereas in respect of i, ii, and iii the decision of the Government shall be based on convincing evidence or documentary proof on the basis of a speaking order.

#### **4. Residuary powers and power to relax rules**

- i. **Residuary Powers:** Matters relating to the conditions of service of the Presiding Officer with respect to which no express provision is made in these rules, shall be referred, in each case to the Central Government or the State Government as the case may be for its decision and the decision of the Central Government or the State Government thereon shall be binding on the Presiding Officer.
- ii. **Power to relax:** The Central Government or the State Government as the case may be, shall have the power to relax the provision of any of these rules relating to Presiding Officer.

### **3.3: Procedure for Appeal to Appellate Tribunal and Connected matters therewith**

#### **3.3.1 Appeal to Appellate tribunal**

1. **Limitation for filing appeal:** Every appeal under section 70 of the Act, arising out of a decision of the Adjudicating Officer appointed under section 68 of the Act, shall be filed within a period of 30 days from the date on which the copy of the order against which the appeal is filed, is received by the appellant.

Provided however that the Appellate Tribunal may allow a maximum of another 30 days to entertain an appeal if it is satisfied that there was sufficient cause for not filing the appeal within first 30 days.

## **2. Form and procedure of appeal**

- i. A memorandum of appeal shall be presented in **Form X** by any aggrieved person in the registry of the Appellate Tribunal or shall be sent by registered post addressed to the Registrar.
- ii. A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it is received in the registry.

## **3. Contents of Memorandum of Appeal**

- i. Every Memorandum of Appeal filed under **Rule 3.3.1 (2)** shall set forth concisely under distinct heads, the grounds of such appeal and such grounds shall be numbered consecutively.
- ii. It shall not be necessary to present separate memorandum of appeal to seek interim order or direction, if the same is prayed for in the Memorandum of Appeal.

## **4. Manner of presentation of appeal or application or petition**

- i. Every appeal or petition or application presented to the Appellate Tribunal shall be in English or the local language of the state and shall be fairly and legibly type written or printed, in double spacing on one side of standard petition paper, duly paginated, indexed and stitched together in paper book form.
- ii. Appeal or petition or application shall be divided into paragraphs and shall be numbered consecutively.

## **5. Initialing alteration**

Every interlineations erasing or correction or deletion in any appeal or petition or application filed before the Appellate Tribunal shall be initialed by the party or his authorized agent in writing or the party's advocate presenting the same.

## **6. Presentation of appeal, petition or application**

- i. Every appeal, petition or application shall be presented in triplicate by the appellant or the petitioner or the applicant, as the case may be, in person or by his duly authorized agent in writing or by an advocate duly appointed in this behalf and shall be accompanied, wherever applicable, with the stipulated fee.
- ii. Every appeal shall be accompanied by the certified copy of the impugned order.

## **7. Scrutiny of memorandum of appeal**

- i. The Registrar shall endorse on every appeal the date on which it is presented under **Rule 3.3.1** or deemed to have been presented under that rule and shall sign endorsement.
- ii. If on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.
- iii. If on scrutiny, the appeal or petition or application is found to be defective, the same shall, after notice to the party, be returned for compliance and if within 21 days of receipt of such notice or within such extended time as may be granted by the Registrar, the defect is not rectified, the Registrar,

may, for reasons to be recorded in writing, decline to register the appeal or petition or application.

### **8. Ex-parte amendments**

- i. In every appeal or petition or application, arithmetical, grammatical, clerical and such other errors may be rectified on the orders of the Registrar under notice to the parties.

### **9. Service of appeal on the respondent**

A copy of the Memorandum of Appeal and the paper book shall be served by the Registrar on the Respondent as soon as they are registered in the registry, by hand delivery or by Registered post or speed post.

### **10. Calling for records**

On the admission of the appeal or the application or petition, the Registrar shall, if so directed by the Appellate Tribunal, call for the records relating to the proceedings from the respective Adjudicating Officer and re-transmit the same at the conclusion of the proceedings or thereafter.

### **11. Reply to the appeal by the Respondent**

- i. Respondent may, within 30 days of service of notice of appeal file with the registry three complete sets containing reply to the appeal along with the documents in a paper book form.

- ii. A copy of every reply and a copy of every document/material annexed to the reply, relied on by the Respondent, shall be served on the appellant by the respondent.

**12. Fee**

- i. Every Memorandum of appeal shall be accompanied with a fee provided in sub-rule (ii) and such fee shall be remitted in the form of crossed demand draft drawn on a nationalized bank in favour of "Registrar, Food Safety Appellate Tribunal" payable at the station where the Appellate Tribunal is located.
- ii. The amount of fee payable in respect of appeal against adjudication orders passed under section 68 of the Act shall be as follows:

Sl No.	Amount of penalty imposed	Amount of fee payable
1.	Less than Rupees10,000/-	Rs. 500/-
2.	Rupees Ten thousand or more but less than Rupees One lakh	Rs. 1,500/-
3.	Rupees One lakh or more	Rs.1500/- plus Rupees 500/- for every additional one lakh of penalty or fraction thereof subject to a maximum of Rs.5,000/-

### **3.3.2 General matters relating to Appellate Tribunal**

#### **1. Sitting hours of the Appellate Tribunal**

The sitting hours of the Appellate Tribunal shall ordinarily be from 11:00 a.m. to 1:30 p.m. and from 2:30 p.m. to 5:00 p.m., subject to any order issued by the Presiding Officer.

#### **Working hours of the Appellate Tribunal**

- i. The office of the Appellate Tribunal shall remain open on all working days on which the State Government Offices remain open and the working hours of the office of the Appellate Tribunal shall be as applicable to working hours of the State Government in which the Appellate Tribunal is located.
- ii. The filing counter of the Registry shall remain open on all working days from 11:00 a.m. to 4:30 p.m.

#### **2. Language of the Appellate Tribunal**

- i. The proceedings of the Appellate shall be conducted in English or the local language of the state.
- ii. No document filed in the proceedings before the Appellate Tribunal in any language other than English, shall be accepted by the Appellate Tribunal unless the same is accompanied by a true copy of translation thereof in English.

#### **3. Official seal of the Appellate Tribunal**

- i. The official seal of the Appellate Tribunal shall be such, as the Presiding Officer may from time to time specify.

- ii. The official seal of the Appellate Tribunal shall be kept in the custody of the Registrar.
- iii. Subject to any general or special direction given by the Presiding Officer, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process, save under the authority in writing from the Registrar.
- iv. The official seal of the Appellate Tribunal shall not be affixed to any certified copy issued by the Appellate Tribunal, save under the authority in writing of the Registrar.

#### **4. Format of direction or rule**

Every direction, summons, warrant or other mandatory process shall be issued in the name of the Presiding Officer and shall be signed by the Registrar or any other officer specifically authorized in that behalf by the Presiding Officer, with the day, month and year of signing and shall be sealed with the seal of the Appellate Tribunal.

#### **5. Carry forward of cause list and adjournment of cases on account of non-sitting of the Appellate Tribunal**

If by reason of declaration of holiday or for any other unforeseen reason, the Appellate Tribunal does not function for the day, the Daily Cause List for that day shall, unless otherwise directed, be treated as the Daily Cause List for the next working day, in addition to the cases already posted for that day.

#### **6. Record of Proceedings**

Case Diaries, in each appeal, shall be kept by the clerk-in charge in such form as may be prescribed by the Presiding Officer and they shall be written legibly. The diary in the main file shall contain a concise



history of the appeal or petition or application, and the substance of the order(s) passed thereon.

### **7. Order sheet**

- i. Order sheet shall be maintained in every proceeding and shall contain all orders passed by the Appellate Tribunal from time to time.
- ii. Order sheet shall also contain the reference number of the appeal or petition or application, date of order and all incidental details including short cause title thereof .

### **8. Calling of cases in the Appellate Tribunal**

Subject to any direction that may be given by the Presiding Officer, the clerk-in-charge shall call the cases listed in the cause list in the serial order.

### **9. Issue of notice**

- i. Where notice of an appeal or petition or application is issued by the Appellate Tribunal, copies of the same, the Affidavit in support thereof and the copy of other documents filed therewith, if any, shall be served along with the notice on the other side.
- ii. The aforesaid copies shall show the date of presentation of the appeal or petition or application and the name of the advocate of such party, with his full address for service and the interim order, if any, made thereon.
- iii. The Appellate Tribunal may order for issuing notice in appropriate cases and also permit the party concerned for service of the said notice on the other side by private service and in such case, deliver the notice to such party and it is for such party to file affidavit of service with proof.

## **10. Summons**

Whenever summons or notice is ordered by private service, the appellant or applicant or petitioner as the case may be, unless already served on the other side in advance, shall arrange to serve the copy of appeal or application or petition by registered post or courier service and file affidavit of service with its proof of acknowledgment before the date fixed for hearing.

## **11. Steps for issue of fresh notice**

If any notice is returned unserved in the circumstances not specified in **Rule 3.3.3 (9)** that fact and the reason thereof shall be notified immediately on the notice board of the Registry. The appellant or applicant or petitioner shall within seven days from date of such notification takes steps to serve the notice afresh.

## **12. Consequence of failure to take steps for issue fresh notice**

Where after a summon has been issued to the other side and returned unserved and the appellant or applicant or petitioner, as the case maybe, fails to take necessary steps within a period as ordered by the Appellate Tribunal from the date of return of the notice on the respondent/s, the Registrar shall post the case before the Appellate Tribunal for further directions or for dismissal for non-prosecution.

## **13. Default of appearance of respondent and consequences**

Where the respondent, despite effective service of summons or notice on him does not appear before the date fixed for hearing, the Appellate Tribunal may proceed to hear the appeal or application or petition ex parte and pass final orders on merits.

#### **14. Filing of objections by respondent**

- i. The respondent, if so directed by the Appellate Tribunal, shall file objections or counter within the time allowed by the Appellate Tribunal. The objections shall be verified as an appeal or petition and wherever new facts are sought to be introduced for the first time, leave of the Appellate Tribunal shall be obtained.
- ii. The respondent, if permitted to file objections or counter in any proceeding shall also file three copies thereof after serving copies of the same on the appellant or applicant or the petitioner or their Advocate on record or the authorized representative, as the case may be.

#### **15. Inspection of records**

The parties to any proceedings before the Appellate Tribunal or their Advocate or the authorized representative may be allowed to inspect the records of such proceedings by making an application in that behalf to the Registrar and paying the prescribed fee for such inspection.

#### **16. Grant of inspection**

- i. An application for inspection of record under **Rule 3.3.3 (15)** shall be in the prescribed form and presented at the filing counter of the Registry between 10:30 a.m. and 3:00 p.m. on any working day and three days before the date on which the inspection is sought, unless otherwise permitted by the Registrar.

- ii. The Registry shall submit the application with its remarks before the Registrar, who shall on consideration of the same, pass appropriate orders.

### **17. Fee payable for inspection**

Fee as may be specified by the Food Authority shall be payable on any application for inspection of records of a pending or decided case. Such fee shall be paid by way of Demand Draft to be drawn in favour of "Registrar, Food Safety Appellate Tribunal" and payable at the place where the Appellate Tribunal is located.

### **18. Mode of inspection**

- i. On grant of permission for inspection of the records, the Registry shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar in the immediate presence of an officer authorised in that behalf.
- ii. The person inspecting the records shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of inspection.
- iii. The person inspecting the records shall not make any marking on any record or paper so inspected and taking notes, if any, of the documents or records inspected may be done only in pencil.
- iv. The officer of the Registry supervising the inspection may at any time prohibit further inspection, if in his opinion, any of the records are likely to be damaged in the process of inspection or the person inspecting the records has violated or attempted to violate the provisions of these rules and

shall immediately make a report about the matter to the Registrar and seek further orders from the Registrar.

### **19. Maintenance of Register of Inspection**

The Registry shall maintain a Register for the purpose of inspection of documents or records and shall obtain therein the signature of the person making such inspection on the Register as well as on the application on the conclusion of inspection.

### **20. Application for production of documents and form of summons**

- i. Except as otherwise provided hereunder, discovery or production and return of documents shall be regulated by the provisions of Civil Procedure Code, 1908.
- ii. An application for summons to produce documents shall set out the document/s production of which is sought; the relevancy of the document/s and in case where the production of a certified copy would serve the purpose, whether application was made to the proper officer and the result thereof.

### **21. *Suo motu* summoning of documents**

Notwithstanding anything contained in these rules, the Appellate Tribunal, may, *suo motu*, issue summons for production of public documents or other documents in the custody of a public officer.

### **3.3.3:Powers and functions of the Registrar and related matters**

1. The Registrar shall discharge his functions under the general superintendence of the Presiding Officer. He shall discharge such other functions as are assigned to him under these rules by the Presiding Officer.
2. The Registrar shall have the custody of the records of the Appellate Tribunal.
3. The Registrar shall have the following powers and functions viz.
  - i. registration of appeals, petitions and applications;
  - ii. to receive applications for amendment of appeal or the petition or application or subsequent proceedings
  - iii. subject to the directions of the Presiding Officer, to fix date of hearing of the appeal or other proceedings and issue notices thereon
  - iv. to order grant of copies of documents to parties to proceedings.
  - v. to dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers.
  - vi. to requisition records from the custody of the Adjudicating officer or any other authority.
4. Preparation and publication of daily cause list:
  - i. The Registry shall prepare and publish on the Notice Board of the Registry before the closing of working hours on each

working day, the cause list for the next working day and subject to the directions of the Presiding Officer, listing of cases in the Daily Cause List shall be in the following order of priority: cases for "pronouncement of orders"

- a. cases for "clarification"
  - b. cases for "admission"
  - c. cases for "orders or directions"
  - d. part-heard cases, latest part-heard having precedence
  - e. cases posted as per numerical order or as directed by the Presiding Officer
- ii. The title of the daily cause list shall contain the number of the appeal or petition or application number, the day, date and time of the sitting of the Appellate Tribunal and the Coram indicating the name of the Presiding Officer.
  - iii. Against the number of each case listed in the daily cause list, the following shall be shown namely
  - iv. the name/s of the advocate/s appearing for both sides and setting in brackets the details of the parties whom they represent
  - v. the names of the parties, if unrepresented, with their details in brackets
  - vi. The objections and special directions, if any, of the Registry shall be briefly indicated in the daily cause list in remarks column, whenever compliance is required.

### **3.3.4: Orders of Appellate Tribunal and related matters**

#### **1. Order**

- i. Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer. The Presiding Officer shall

have powers to pass interim orders or injunction, subject to reasons to be recorded in writing, which he considers necessary in the interest of justice.

- ii. Orders shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer
- iii. Reading of the operative portion of the order shall be deemed to be pronouncement of order.
- iv. When orders are reserved, the date for pronouncement of order shall be notified in the cause list which shall be a valid notice of intimation of pronouncement.

## **2. Communication of orders**

A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Adjudicating Officer and to the parties, as the case may be.

## **3. Publication of orders**

The orders of the Appellate Tribunal, as are deemed fit for publication in the press may be released for such publication on such terms and conditions as the Presiding Officer may specify.

## **4. Making of entries**

Immediately on pronouncement of an order by the Presiding Officer, the Registrar shall make necessary endorsement on the case file regarding the date of such pronouncement and the nature of disposal and shall also make necessary entries in the diary maintained by him.

## **5. Indexing of case files after disposal**

After communication of the order to the parties or their counsel, the Registry shall arrange the records with pagination and prepare in the Index Sheet in such form as may be prescribed by the Appellate



Tribunal. He shall affix initials and then transmit the records with the Index to the records room.

#### **6. Copies of orders in library**

- i. The Officer in charge of the Registry shall send copies of every final order to the library.
- ii. Copies of all final orders received in each month shall be kept at the library in a separate folder, arranged in the order of date of pronouncement, duly indexed and stitched.

#### **7. Removal of difficulties and issue of directions**

Notwithstanding anything contained in these rules, wherever the rules are silent or no provision is made, the Presiding Officer may issue appropriate directions to remove difficulties and issue such order or circulars to govern the situation or contingency that may arise in the working of the Appellate Tribunal.

**FORM I**

**FORM OF AFFIDAVIT**

**Seizure of books of account and other documents**

**(Refer Rule 2.2.2)**

I, son of/wife of/daughter of Mr. \_\_\_\_\_, aged about \_\_\_\_\_ years and residing at \_\_\_\_\_do hereby solemnly affirm and sincerely state as follows:

1. I am the sole proprietor/Partner/Director/employee of \_\_\_\_\_Private Ltd/Limited (here give the name of the firm or Company) having its Office/carrying on business//Registered Office at \_\_\_\_\_.
  
2. I say that on \_\_\_\_\_ at about \_\_\_\_a.m./p/m., the Food Safety Officer, \_\_\_\_\_(here give the area of operation of the Food Safety Officer) inspected/searched the premises at \_\_\_\_\_ where I am/ \_\_\_\_\_Private Ltd./Limited is carrying on business. During the course of such inspection/search, the Food Safety Officer has seized certain books of account and documents relating to the business.
  
4. I say that the books of accounts and other documents seized during the inspection/search are required for carrying on business and hence it is necessary that they be returned to me immediately.
  
5. At my request, the Food Safety Officer has agreed to return the books of account and other documents so seized during the inspection/search, subject to my providing him extracts or copies of

such books of account and other documents. The Food Safety Officer has given me the details of the extracts or the copies required by him.

6. I say that I have caused the extracts/copies so required to be taken in the presence of the Food Safety Officer/\_\_\_\_\_ (name) an officer working in the department of the Food Safety Officer.
7. I confirm and declare that the extracts/copies annexed to this Affidavit are the true, authentic and genuine extracts/copies of books of account/other documents seized on \_\_\_\_\_ and in confirmation thereof, I have initialed each page of such extracts/copies.
8. I am aware that based on the solemn declarations given in this Affidavit, the Food Safety Officer has agreed to return the books of accounts and other documents seized as aforesaid on \_\_\_\_\_.
9. I hereby undertake to produce the books and accounts and other documents or any part thereof at any time as may be required by the Designated Officer or by the Food Safety Officer or before any inquiry proceedings or before any adjudication proceedings that may be initiated by the Food Safety Officer against me or against \_\_\_\_\_Private Ltd./Limited or both..

**(SIGNATURE OF THE DEPONENT)**

**Solemnly affirmed and  
signed before me this \_\_\_\_\_ of \_\_\_\_\_  
Notary Public. \_\_\_\_\_**

**FORM II**  
**SEIZURE MEMO**  
**[Refer Rule 2.3.1]**

*In exercise of the power delegated to me under section 38 of the FSS Act, I hereby seize/detain the under mentioned food products/documents which contravene the provision of section----- of this Act at the premises of M/S-----*

<i>Sl.No.</i>	<i>Name of the products</i>	<i>Batch No.</i>	<i>No of units</i>	<i>Qty in kgs .</i>
1.				
2.				
3.				
4.				
5.				

*The detention/seizure has been made and the inventory has been prepared in presence of the following witnesses.*

<i>Name and address of the witness</i>	<i>signature.</i>
1.	
2.	

*The products detained/seized have been duly sealed and are left in the custody of Shri.----- with the instruction not to tamper with the seals and not to dispose of the products till further order.*

*Signature of Manufacturer/dealer*

*Signature of Food Safety Officer*

*Name-----*

*Place-----*

*Date:-----*

**FORM III**  
**FORM OF ORDER OF SEIZURE**

**[Refer Rule 2.3.2.(1)]**

To

(Name and address of the Food Business Operator)

.....  
.....  
.....

Whereas below mentioned articles of food....intended for sale which is in your possession appears to me to be adulterated/misbranded under in violation of section-----of FSS Act:

<b>Sl.No.</b>	<b>Name of the products</b>	<b>Batch No.</b>	<b>No of units</b>	<b>Qty in kgs</b>
---------------	-----------------------------	------------------	--------------------	-------------------

- :
- 1.
  - 2.
  - 3.
  - 4.
  - 5.

-----

Now therefore under clause (c) of sub-section (1) of section 38 of the Food Safety and Standards Act, 2006 (34 of 2006), I hereby direct you to keep in your safe custody the said sealed stock subject to such orders as may be issued subsequently in relation thereto.

Food Safety Officer  
Area.....

Place:

Date:

**FORM IV**

**[Refer Rule 2.3.2.(2)]**

FORM OF SURETY BOND

Know all men by these present that we (i) .....son of .....resident of .....and (ii) ..... son of .....resident of .....proprietors/partners/employees of Messrs .....hereinafter called the Food Business Operator (s) and (iii).....son of .....resident of .....and (iv) .....son of .....resident of.....hereinafter called the surety/sureties are held and firmly borne up to the President of India/Governor of.....hereinafter called the government in the sum of .....rupees to be paid to the government, for which payment will and truly be made.

We firmly bind ourselves jointly and severally by these presents.

Signed this .....day of .....whereas Shri.....Food Safety Officer has seized.....(here, insert the description of materials together with number/quantity and total price hereinafter referred to as the said article) from .....(specify the place);

Whereas on the request of the Food Business Operator(s) the government has agreed to keep the said article in the safe custody of the Food Business Operator(s) executing a bond in the terms hereinafter contained and supported by surety/ two sureties which the Food Business Operator(s) has/have agreed to do. Now the condition of the above written obligation is such that if in the event of the Food Business Operator(s) failure to produce intact the said article before such court or Authority and on such dates(s) as may be specified by the said Food Safety Officer from time to time the Food\_Business

Operator(s) and /or the surety/sureties forthwith pay to the government on demand and without a demur sum of .....rupees and there after the said bond will be void and of no effect. Otherwise the same shall be and remain in full force and virtue.

These presents further witness as follows:

- (i) The liability of the surety/sureties hereunder shall not be impaired or discharged by reason of time being granted by or any forbearance, act or omission of the government whether with or without the knowledge or consent of the sureties or either of them in respect of or in relation to all or any of the obligations or conditions to be performed or discharged by the Food Business Operator(s). Nor shall it be necessary for the government to sue the Food Business Operator(s) before suing the sureties or either of them for the amount due, hereunder.
- (ii) This Bond is given under the Food Safety and Standards Act,2006 for the performance of an Act in which the public are interested.
- (iii) The government shall bear the stamp duty payable on these presents.

In witness whereof these presents have been signed by the Food Business Operator(s) and the surety/sureties the day hereinabove mentioned and by Shri.....on behalf of the President of India on the date appearing below against his signature.

Witnesses:

1..... (Signature)  
(Name and address).....

2..... (Signature)

(Name and address).....

Signature..... (*Food Business Operator*).....

Signature..... (*Food Business Operator*).....

Signature..... (Surety).....

Signature..... (Surety).....

for and on behalf of the

President

of India / governor of state of.

Signature.....

( Designation).....



**FORM V A**  
**FORM OF NOTICE To THE Food Business Operator**  
**(Refer Rule 2.4.1. (3))**

To

.....

.....

Dear Sir/s/ Madam:

I have this day taken the samples of food from premises/shop/market of .....situated at .....as specified below to have the same analysed by the Food Analyst for \_\_\_\_\_.

Details of food:

Code number:

Parameter to be tested:

1. As per the FSSAI Standards for the specific products
2. Any additional test to be performed if any

Place:

(Sd/-) Food Safety

Officer/Authorized Officer.

Date:

Address:

Acknowledgement:

Sign of Food Business Operator

Witnesses

Witnesses

**FORM V B**  
**(form of notice to be given by purchaser)**  
**(Refer Rule 2.4.4 (2))**

To

.....

.....

Dear Sir/s/ Madam:

I have this day taken the samples of food from premises/shop/  
market of .....situated at .....as specified below to have  
the same analysed by the Food Analyst for \_\_\_\_\_.

Details of food:

Code number:

Parameter to be tested:

1. As per the FSSAI Standards for the specific products
2. Any additional test to be performed if any

Place:

Date:

Address:

**FORM VI**

MEMORANDUM TO FOOD ANALYST

From:

.....

.....

Date: \_\_\_\_\_

To

Food Analyst

.....

.....

MEMORANDUM

**(Refer Rule 2.4.1(11))**

1. The sample described below is sent herewith for analysis under \_\_\_\_ of \_\_\_\_ of section \_\_\_\_ of Food Safety and Standards Act, 2006
  - (i) Code Number
  - (ii) Date and place of collection
  - (iii) Name and Nature of articles submitted for analysis
  
  - (iv) Name and Nature and quantity of preservative, if any, added to the sample.
  
2. A copy of this memo and specimen impression of the seal used to seal the packet of sample are being sent separately by post/courier/hand delivery (strike out whichever is not applicable)

(Sd/) Food Safety Officer

Address:

**FORM VII A**  
**[Refer Rule 2.4.4(6)]**  
REPORT OF THE FOOD ANALYST

Report No. \_\_\_\_\_.

Certified that I \_\_\_\_\_ (name of the Food Analyst) duly appointed under the provisions of Food Safety and Standards Act, 2006 (34 of 2006), for \_\_\_\_\_ (name of the local area) have received from \_\_\_\_\_\* a sample of \_\_\_\_\_, bearing Code number and Serial Number \_\_\_\_\_ of Designated Officer of \_\_\_\_\_ area\* on \_\_\_\_\_ (date of receipt of sample) for analysis.

The condition of seals on the container and the outer covering on receipt was as follows:

Intact/damaged/missing (delete where inapplicable)

I found the sample to be ..... (category of the sample) falling under item No. \_\_\_\_\_ of Chapter 5 of Food Safety and Standards Regulations. The sample was in a condition fit for analysis and has been analysed on \_\_\_\_\_ (give date of starting and completion of analysis) and the result of its analysis is given below/ was not in a condition fit for analysis for the reason given below:

Reasons:

.....

## Analysis Report

### Refer Rule 2.4.2 (5)

(i) Sample Description (What it contains)

.....

(ii) Physical Appearance of sample/container

.....

(iii) Label declaration.

.....

Sl No.	Quality characteristics	Nature of method of test used	Result	Prescribed standards as per (a) provisions of the FSS Act , Rules and Regulations
1.				
2.				
3.				
4.				
5.				
6.				

Report (sample wise)

-adulterated/misbranded/within norms/ violates provision of

.....(delete where not applicable)

-any other observations

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20

Address:

(Sd/-) Food Analyst.

- \* Give the details of the senders
- \*\* Strike out whichever is not applicable
- \*\*\* When opinion and interpretation are included, document the basis upon which the opinions/interpretations have been made.

**FORM VIII**  
**[Refer Rule 2.4.6 (1)]**

**FORM OF APPEAL BEFORE THE DESIGNATED OFFICER**

**APPEAL BEFORE THE DESIGNATED OFFICER**

**(PLACE)**

In the matter of appeal under section 46 (4) of The Food Safety and Standards Act 2006 (34 of 2006)

AND

In the matter of appeal against the report dated \_\_\_\_\_ from the Food Analyst

1. No. and date of the report of the Food Analyst against which the appeal is being preferred
2. Brief details of the facts and the grounds on which the report is being challenged
3. Relief being claimed

**Signature of Appellant**

**FORM NO.IX**

**(Form of Nomination – Refer rule 2.5.1)**

**NOMINATION OF PERSONS BY A COMPANY**

Being the proprietor or a signatory authorized by the board of directors of the company in terms of Rule 2.5.1 (2), I do hereby gives notice that the following persons(s) is/are nominated as the person(s) in charge of establishment, branch or the unit mentioned against the name of the person(s) and shall be responsible and liable for food safety or any contravention of the Act and rules/regulations or directions issued thereunder in respect of the concerned establishment/branch/unit.

The person(s) shall take all such steps as may be necessary to prevent the commission by the Company of any offence under and comply with the provisions of Food Safety and Standards Act, 2006 and the Rules and Regulations made thereunder.

*Branch wise/office wise nomination .*

Establishment/branch/unit name	Name and Sign of Person i/c
1.	1.
2.	2.
3.	3.

A certified copy of the resolution of the board regarding the authorized signatory, dated \_\_\_\_\_ is enclosed.

Place: \_\_\_\_\_ For \_\_\_\_\_ Ltd./Private  
Ltd.

Date: \_\_\_\_\_

1. Authorized signatory of the company

Place:



Date:

**FORM X**

**(Refer Rule (i) of 3.3.1 (2))**

**FORM OF APPEAL**

**BEFORE THE FOOD SAFETY APPELLATE TRIBUNAL**

**(PLACE OF THE TRIBUNAL)**

**In the matter of Food Safety and Standards Act, 2006 (34 of 2006)**

**AND**

**In the matter of appeal against the order dated \_\_\_\_ passed by the Adjudicating Officer, (Place)**

**APPEAL NO. \_\_\_\_ OF \_\_\_\_**

**A.B. .. Appellant**

**Vs**

**C.D ... Respondent**

For use in Appellate Tribunal's office

**Date of presentation in the registry**

**Date of receipt by post**

**Registration No.**

**Signature**

**(Registrar)**

**INDEX**

**(Specimen Index)**

<b>SI No.</b>	<b>EXHIBIT</b>	<b>PARTICULARS</b>	<b>Page No.</b>
1.		Memorandum of Appeal	
2.	A	Copy of the Show Cause Notice dated ____ issued by the Adjudicating Officer	
3.	B	Copy of the Reply dated __ sent by the Appellant to the Show Cause Notice.	
4.	C	Copy of the letter dated __ sent by the Appellant to the Adjudicating Officer	
5.	D	Copy of the impugned order dated _____	

## **MEMORANDUM OF APPEAL**

### **1. Particulars of the Appellant**

- (i) Name of the Appellant:           A B
  
- (ii) Address of the Appellant:
  
- (iii) Address for service of  
all notices
  
- (iv) Telephone/Fax No.  
E-mail address, if any

### **2. Particulars of the Respondent**

- (i) Name of the Respondent :           C.D.
  
- (ii) Address of the Respondent:
  
- (iii) Address for service of  
all notices
  
- (iv) Telephone/Fax No.  
e-mail address, if any

**3. Jurisdiction of the Appellate Tribunal**

The Appellant declares that the matter of appeal falls within the jurisdiction of the Appellate Tribunal.

**4. Limitation**

The Appellant further declares that the appeal is within the limitation as prescribed in Rule 3.3.1 (2)

**5. Facts of the case**

Here give a concise statement of facts of the case and grounds of appeal against the specified order, in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise)

**6. Relief(s) sought**

In view of the facts mentioned in paragraph 5 and the grounds on which the impugned order is challenged, the Appellant prays for the following relief(s)

**(Here specify the relief(s) sought and the legal provision, if any, relied upon)**

**7. Interim relief(s) sought (if prayed for)**

Pending the final decision in the appeal, the Appellant seeks the following interim relief (s).

**(Here specify the interim relief(s) prayed for and the reasons therefore)**

**8. Matters not pending with any other court**

The Appellant further declares that the matter regarding which this appeal has been filed, is not pending before any court of law or any other authority or any other Tribunal.

**9. Particulars of fee paid**

- (i) Amount of fee Rs. \_\_\_\_\_
- (ii) Name of the bank on which  
the Demand Draft is drawn \_\_\_\_\_ Bank
- (iii) Demand draft No. and date

**10. Details of Index**

An index containing the details of the documents relied upon is enclosed.

**11. List of enclosures**

**(Signature of the Appellant)**

**VERIFICATION**

I, \_\_\_\_\_ son /wife/daughter of Mr.\_\_\_\_\_being the Appellant do hereby verify that the contents of paragraphs 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material fact.

**(Signature of the Appellant)**

**Place:**

**Date:**

**[F.No. P15017/20/2009-FSSAI(Pt)**

**(Dr.Arun Kumar Panda)**

**Joint secretary**

**To  
The manager,  
Govt of India Press,  
Maya puri,  
Delhi.**

**VERIFICATION**

I, \_\_\_\_\_ son /wife/daughter of Mr.\_\_\_\_\_being the Appellant do hereby verify that the contents of paragraphs 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material fact.

**(Signature of the Appellant)**

**Place:**

**Date:**

**[F.No. P15017/20/2009-FSSAI(Pt)**

**(L.C.Goyal)**

**Additional Secretary and DG (C.G.H.S)**

**To  
The manager,  
Govt of India Press,  
Maya puri,  
Delhi.**