

Nand Ram and Another Vs State

Court: Allahabad High Court

Date of Decision: July 21, 1967

Acts Referred: Prevention of Food Adulteration Act, 1954 " Section 23, 3

Citation: (1967) 37 AWR 773

Hon'ble Judges: Gangeshwar Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Gangeshwar Prasad, J.

This application has been filed by two persons, Nand Ram and Sardari Lal. They were convicted u/s 16(1) read

with Section 7 of the Prevention of Food Adulteration Act by the SDM Lansdowne and sentenced to a fine of Rs. 150/- each. Their appeal

against their convictions and sentences was dismissed by the learned Civil and Sessions Judge of Tehri Garhwal and they have come up in revision

to this Court.

2. Sardari Lal Applicant has a flour shop at Kotdwara on Badrinath Marg and Nand Ram Applicant acts as his salesman on that shop. On 30-5-

1963 Sri fshwari Datt Ghildiyal, Food Inspector, took for analysis 700 grams of Resultant Atta from the shop of the Applicant. On analysis by the

Public Analyst the sample taken by the Food Inspector was found to be deficient in gluten, containing only 4.5% of gluten whereas the standard

prescribed for Atta, which, according to the prosecution, is applicable to Resultant Atta as well, requires a minimum gluten content of 7%.

3. It is admitted by the prosecution that no standard has been prescribed for Resultant Atta as such, but its contention is that Atta includes

Resultant Atta and both the articles are governed by the same standard. This contention has been accepted by the courts below and the only point

involved in the case is whether the contention is sound and worthy of acceptance.

A. 18.01 of Appendix B to the Rules framed under the Prevention of Food Adulteration Act defines Atta as "the coarse product obtained by

milling or grinding wheat," and then it prescribes the standard of quality in respect of it. Resultant Atta has nowhere been defined nor has it

anywhere been provided that Resultant Atta shall conform to the standard prescribed for Atta. It is noteworthy in this connection that A. 18.02

and A. 18.03 of Appendix B define Maida and Suji respectively and lay down standards of quality for the said articles.

4. The learned Civil and Sessions Judge summoned and examined in appeal Dr. R.S. Srivastava, Public Analyst for Uttar Pradesh, who stated that

Resultant Atta is also a kind of Atta. According to him, Atta has two varieties; one, wholemeal Atta obtained by grinding or milling of wheat; and

the other, Atta from which Maida and Suji have been, expelled. In his opinion the gluten content of Resultant Atta should not be lower than that of

Atta. The statement of Dr. R.S. Srivastava and the opinion expressed by him have been accepted by the learned Civil and Sessions Judge and he

has held that Resultant Atta too has to conform to the standard laid down for Atta. I, however, think that the conclusion reached by the learned

Judge is not correct.

5. The standard prescribed by A. 18.01 of Appendix B is confined to Atta as defined therein and the application of the standard cannot be

extended to any other article. For the purpose of A. 18.01 of Appendix B Atta is a term with a special meaning attached to it and it is not

permissible to regard any other article as comprehended within that term by reason of the fact that other wheat products of allied nature have

similar constituents or, for the matter of that, by taking into account any other consideration. On the evidence of Dr. R.S. Srivastava himself

Resultant Atta is the product obtained not merely by milling or grinding wheat but also by subjecting the product to another process i.e. of expelling

from it Maida and Suji. Its nature and the process of its preparation are, therefore, different from what have been described in A. 18.01 of

Appendix B as the nature and the process of preparation of Atta. Consequently, it is not possible to hold that the standard prescribed for Atta

would govern Resultant Atta as well.

6. It cannot be urged that every wheat product is Atta within the meaning of A. 18.01 of Appendix B irrespective of anything done subsequent to

the milling or grinding. If that were so, Maida and Suji which have been separately defined in A. 18.02 and A. 18.03 of Appendix B respectively

and for which separate standards have been prescribed, would also be included in Atta. The learned Counsel for the Applicants has drawn my

attention to the fact that the wheat Roller Flour Mills (Licensing and Control) Order, 1957 which provides that for its purposes wheat products

include Maida, Atta, Suji, Rawa. Resultant Atta and bran and he has urged that this goes to show that Resultant Atta is an article distinct from

Atta. The fact that Atta and Resultant Atta have been separately mentioned as included in wheat products for the purposes of the aforesaid Order

does, in my opinion, lend some support to the contention of the learned Counsel. However, on the definition given in A. 18.01 of Appendix B of

the Rules it seems clear that Resultant Atta cannot be held to be covered by the definition of Atta.

7. The learned Civil and Sessions Judge has also placed reliance on a copy of the Minutes of a meeting of the Central Committee for Food

Standards held in Baroda on the 16th to 18th January, 1962 which was produced by Dr. R.S. Srivastava during the course of his evidence. The

portion relied upon by the learned Judge is as follows:

The request made by the Ministry of Food and Agriculture for providing a separate standard for resultant atta was examined carefully. The

Committee was of the opinion that there was no case for providing a separate standard for Resultant Atta particularly in view of the fact that the

Chairman, Roller Flour Mills Association of India, has stated that the resultant atta produced by the Mills is not very far from the wholemeal atta

produced in some parts of the country and that the analytical results of the resultant atta produced at various centres show that the resultant atta is

well above the minimum quality standards of the ISI. The Committee, therefore, did not accept the suggestion made by the Ministry of Food and

Agriculture.

8. The Minutes cannot, in my opinion, be looked into for determining whether Resultant Atta is covered by the expression "Atta" as defined in A.

18.01 of Appendix B of the Rules. It is true that the Central Committee for Food Standards is constituted u/s 3 of the Prevention of Food

Adulteration Act and is, therefore, a statutory body. But, that cannot make its deliberations a permissible source of guidance in the interpretation of

the Rules. It has firstly to be borne in mind that the said Committee is only a consultative body u/s 23 of the Prevention of Food Adulteration Act

and is not itself empowered to prescribe standards of quality for any article of food. Secondly, the Minutes only represent the opinion of that body

on the question whether it was necessary to fix any separate standard for Resultant Atta and such opinion is not a matter which a court may

legitimately consider in deciding whether Resultant Atta too is really included in the expression "Atta" as defined in A. 18.01 of Appendix 8 of the

Rules. Since the inclusion of Resultant Atta in the expression "Atta" would attract the penal provisions of Section 16 of the Prevention of Food

Adulteration Act it should clearly follow from the definition of Atta as given in A. 18.01 of Appendix B of the Rules and be free from doubt. It,

however, appears that on the words of the definition of Atta as given in Appendix B of the Rules it is at least doubtful that the definition covers

Resultant Atta as well. As such, the courts should lean towards the construction which would exempt persons from the liability resulting from the

aforesaid provision and it must be held that Resultant Atta is not governed by the standard prescribed for Atta.

9. For the reasons discussed above I find that the Applicants are not guilty of the offence with which they have been charged. The application in

revision is accordingly allowed, the convictions and sentences of the Applicants are set aside and they are acquitted. The fine, if paid, shall be

refunded.