

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12871 of 2012**

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M/S R.K. Products Company (Unit III), Plot No. 126, Sy. No. 125 Part, IDA Mallapur RR, P.S.- Nacharam, District- Hyderabad (Andhra Pradesh) through its authorized signatory, Jitendra Kumar Chourasiya S/O Sri Megh Nath Chourasiya, R/O Gali No. 2, Chandmari Road, P.S.- Kankarbagh, District- Patna

.... .... Petitioner

Versus

1. The Union of India through the Secretary Ministry Of Finance, Government of India, New Delhi
2. The Secretary, Ministry of Food Processing, Government of India, New Delhi
3. The Secretary, Ministry of Commerce & Industries, Government of India, New Delhi
4. The Secretary, Ministry Of Health, Government of India, New Delhi
5. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna
6. The Commissioner of Food Safety cum Secretary Department of Health, Government of Bihar, Patna

.... .... Respondents

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**Appearance :**


For the Petitioner : Mr. Prabhat Ranjan, Advocate  
For the State : Mr. Parth Sharthi SC10

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**CORAM: HONOURABLE MR. JUSTICE JAYANANDAN SINGH**  
**ORAL ORDER**

2      20-07-2012      Learned counsel for the petitioner is permitted to add Chairman, Food Safety Authority of India, Ministry of Health and Family Welfare as party respondent no.7 in this writ application in course of the day.

Learned counsel for the petitioner has challenged the vires of notification dated 30<sup>th</sup> of May, 2012, as contained in Annexure-2, submitting that Gutkha and Pan Mashala are not articles of food. Hence, the same are not covered under the provisions of the Food Safety and Standards Act, 2006. He also




submitted that for tobacco products, a specific Act, namely, Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003, is in operation. Hence general Act, namely, Food Safety and Standards Act, 2006 shall not be applicable in matters covered by the earlier Special Act.

Issue notice to newly added respondent no.7 by registered cover with A/D. Requisite etc. for the same shall be filed within one week, failing which this application, as against it, shall stand rejected without further reference to a Bench.

Put up after service of notice.

Meanwhile, other respondents may also file counter affidavit.

Learned counsel for the petitioner submits that due to ban imposed by the impugned notification, as contained in Annexure-2, large quantity of Gutkha and Pan Mashala have been stacked up in the godown of petitioner. He submits that now, in view of the ban, neither petitioner-firm can sell it nor it can transport it elsewhere outside the State. Hence, during the pendency of this application, petitioner should not be harassed for stocking the materials.



Since petitioner claims that it had stocked the materials before imposition of ban, it is advisable for the respondents to either allow the petitioner to transport the materials somewhere outside the State where ban is not operating or to get stock verification done and to seal the godown till further orders of the Court or any competent authority. Alternatively, if the respondents so consider it appropriate, after stock verification, they may obtain an undertaking from the petitioner that it shall not sell the articles in open market during the pendency of this application.

Learned counsel for the petitioner will be at liberty to mention this case for its early hearing after service of notice.

**(Jayanandan Singh, J)**

B.T/-