FSSAI order seeks to scrap cases filed under old food safety norms

Order comes less than two weeks after Nestle India was slapped with a fine of Rs45 lakh in Shahjahanpur, Uttar Pradesh

FSSAI chief executive officer Pawan Kumar Agarwal. The rationale behind the FSSAI order, as pointed out by the food regulator, is the formation of new standards and amendments to old regulations. Photo: Pradeep Gaur/Mint

In a big relief to food companies, the country’s food regulator Food Safety and Standards Authority of India (FSSAI) on Friday issued an order that effectively scraps
almost all cases filed against food business operators for alleged violations of food safety standards and regulations in the past.

This would, according to the FSSAI order, prevent “avoidable harassment” of food companies.

“Commissioners of food safety are advised to withdraw, or at least not pursue, cases for violation of old norms and standards unless these are still not in conformity with the new/revised standards so that avoidable harassment of food business operators could be prevented,” the FSSAI order reads.

The order comes less than two weeks after the additional district magistrate of Shahjahanpur, Uttar Pradesh, slapped a fine of Rs45 lakh on Nestle India Ltd, Rs15 lakh on three of its distributors and Rs11 lakh on two retailers. The penalty was imposed in cases filed by the Uttar Pradesh Food Safety and Drug Administration based on reports by a Lucknow-based laboratory in 2016. The laboratory found higher than permissible ash content in samples of Maggi noodles that were collected back in 2015.

Besides denying the allegations, Nestle India had said in a statement that the tests were conducted applying “incorrect standards”.

The rationale behind the FSSAI order, as pointed out by the food regulator, is the formation of new standards and amendments to old regulations. During the last few years, FSSAI has notified a number of new standards, besides amending some of the old ones.

In the absence of a clear directive from FSSAI, state-level food safety inspectors had been following either old or new standards, or both, to identify violators. State food authorities have filed cases with different courts, sometimes at the district level, and these are being pursued until settlement.

Between April 2008 and 31 March 2016, food inspectors picked up 681,021 samples for testing across the country, of which 95,828 were found to be adulterated or misbranded, and a total number of 69,759 cases, both criminal and civil, were lodged against food business operators, according to FSSAI reports. Many of these cases are yet to be settled. FSSAI’s annual report for the year ended 31 March 2017 has not yet been published.

Currently, food companies across the supply chain in India are required to comply with the provisions of the Food Safety and Standards Act, 2006. Before this Act, food products were governed by the Prevention of Food Adulteration Act, 1954.

The field machinery tasked with the responsibility of ensuring food safety, noted FSSAI in its order, may have lodged cases against some food business operators for violation of the “old standards even though the impugned products may now be in conformity with the new or revised standards”.
“It may be appreciated that such revision of standards has taken place after taking into account all scientific evidence required to ensure appropriate level of protection of human life and health. Engaging of state machinery in pursuing such cases not only diverts the scarce human resources of the government but also burdens the judicial system,” the FSSAI order added.

Food companies are happy with the latest order. “We are pleased... and welcome this as a progressive step which will help reduce confusion among food business operators, enforcement authorities and other stakeholders,” said a Nestle India spokesperson.

Hemant Malik, ITC Ltd’s divisional chief executive (foods division), also welcomed the order.