



2025:DHC:9955-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision:-12.11.2025

+ W.P.(C) 17152/2025

JNTL CONSUMER HEALTH INDIA PVT LTDPetitioner

Through: Mr.Mukul Rohatgi, Sr.Adv,
Mr.Sandeep Sethi, Sr.Adv, Mr.Pragyan
Pradip Sharma, Sr.Adv with
Ms.Gowree Gokhale, Mr.Alipak
Banerjee, Mr.Parva Khare and
Ms.Meghna Mishra, Advs.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr.Chetan Sharma, ASG with
Mr.AshishK.Dixit, CGSC, Mr.Amit
Gupta, Mr.Umar Hashmi, Mr.Shubham
Shukla and Mr.Manan, Advs for R-1.
Mr.Chetan Sharma, ASG with
Mr.Aditya Singla, Ms.Arya Nair,
Mr.Akhil Sharma and Mr.Dhananjay
Gautam, Advs for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, CJ (ORAL)

CM APPL. 70575-76/2025 (Exemption & Lengthy Synopsis)

1. Exemptions allowed, subject to all just exceptions.
2. The lengthy list of dates is taken on record.
3. The applications stand disposed of.

CM APPL. 70574/2025 (Interim Relief)

4. This interim application has been moved with the prayer to stay the



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implementation and effect of the impugned orders dated 14.10.2025, 15.10.2025 and 30.10.2025, and further to restrain the respondents from taking any coercive or criminal action against the petitioner. Prayer has also been made to restrain the respondents from stopping the sale, manufacture, seizure of stocks, suspension or cancellation of licences, etc, of the petitioner and its products in question. Another interim prayer made is that the petitioner may be permitted to distribute and sell the products, which have been already manufactured in compliance of the orders dated 02.02.2024 and 14.07.2022.

5. Heard Mr.Mukul Rohatgi, learned senior counsel & Mr.Sandeep Sethi, learned senior counsel for the petitioner and Mr.Chetan Sharma, learned Additional Solicitor General representing the respondents.

6. The Executive Director of Food Safety and Standard Authority of India (hereinafter referred to as the Authority) issued a circular dated 08.04.2022 advising the Commissioners of Food Safety and Central Licensing Authorities to take appropriate action against such Food Business Operators (FBOs) including issuance of improvement notices under Section 32 of Food Safety and Standards Act, 2006(hereinafter referred to as Act), to rectify the labelling defects while ensuring that the term “ORS”(Oral Rehydration Salts) is not used in labelling of products failing which appropriate legal action as per the provisions of the Act and the regulations framed thereunder should be initiated against the defaulting FBOs. The said circular letter was issued by the Authority on receipt of representations/complaints regarding misuse of the term “ORS” by certain fruit-based and non-carbonated or ready-to-drink beverage manufacturers by labelling/using terms similar to “ORS” like “ORSL”, “ORSL Rehydrate”, “Electro Plus ORS”, etc.

7. It was observed in the said circular letter that “ORS” is a drug under Drugs and Cosmetic Rule 1945 used for treatment of acute diarrhoea and has a



specific composition, however marketing and labelling of the fruit based beverages being manufactured by FBOs and naming such product with the term which contains “ORS” is not only misleading for the consumers, but is also harmful for the patients who may consume such products as “ORS”, especially in case of children suffering from diarrhoea and gastroenteritis etc. It was also observed in the said circular, that the term “ORS” or similar to “ORS” and/or depiction of the food products as “ORS” is not allowed, and use of such term may render the products as “misbranded food”.

8. An order was issued on 14.07.2022 by the Authority directing the FBOs to provide a declaration prominently placed on their Front-of-Pack either through non-detachable stickers or printing that *‘the product is not an ORS formula as recommended by WHO’* or the FBOs may use similar meaning phrases without changing intent. It was also directed that those FBOs, which were manufacturing such products, who had not trademarked them before the date of the said order, shall discontinue the same and that such FBOs shall be required to submit undertaking after which they shall be provided six months’ time to exhaust the existing stock/inventory of such products in the market along with pre-printed packaging material.

9. On 05.06.2023, the Office of the Controller General, Patents, Designs and Trade Marks, wrote a letter to Regulatory Compliance Division of the Authority on the subject of usage of the term “ORS” along with brand name. By the said letter, it was informed that so far as the use of the word “ORS along with other prefix or suffix” is concerned, the same may be used by the manufacturers as a whole. Thereafter, by means of an order dated 02.02.2024 the Authority provided that FBOs may use the word “ORS along with other prefix or suffix” as a whole in consonance with Section 17 of the Trade Mark Act, 1999. The order further stated that all such FBOs shall provide a



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prominent declaration that *“the product is NOT a ORS formula as recommended by WHO”* or any similar meaning phrases without changing the intent. The order also provided that the FBOs, shall clearly state the declaration, i.e. *“this is only a brand name or trademark, or fancy name and does not represent its true nature (relevant one may be chosen as applicable)”*, in a specified font size.

10. However, the Authority thereafter passed an order dated 14.10.2025 whereby the earlier orders dated 14.07.2022 and 02.02.2024 regarding the usage of the term “ORS” along with brand names, were withdrawn with immediate effect.

11. A clarification was again issued by the Authority on 15.10.2025 that use of the term “ORS” in the trademarked name or in the naming of any food product, even when accompanied by a prefix or suffix, constitutes a violation of the provisions of the Act and the regulations framed thereunder. By the said letter dated 15.10.2025, it was further clarified that such practices are misleading the consumers by way of false, deceptive, ambiguous and erroneous names/label declarations and are in contravention of various provisions of the Act and the regulations mentioned in the said letter itself.

12. The letter dated 15.10.2025 reiterated that the earlier orders issued on the subject, dated 14.07.2022 and 02.02.2024, stood withdrawn with immediate effect. Furthermore, the FBOs were directed to remove the word “ORS” from their food products, whether used as a standalone term or in combination with any prefix or suffix or as part of the trademark with prefix or suffix in the product name.

13. The petitioner, challenging the order dated 14.10.2025 and the clarificatory letter dated 15.10.2025 instituted W.P.(C) 16217/2025, which was disposed of by a learned Single Judge of this Court by means of an order dated



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17.10.2025, whereby the petitioner was permitted to make a representation raising its grievances in respect of the order dated 14.10.2025 and the clarificatory letter dated 15.10.2025, within a week. This Court, in its order dated 17.10.2025, also recorded the consent of the parties that till such representation is decided in accordance with law and after affording an opportunity of hearing to the petitioner, the orders impugned in the said writ petition, namely the order dated 14.10.2025 and 15.10.2025, shall not be given effect to.

14. In compliance of the said order dated 17.10.2025, the representation preferred by the petitioner against the orders 14.10.2025 and 15.10.2025 has been decided by means of an order dated 30.10.2025, which is under challenge in this petition.

15. Apart from challenging the order dated 30.10.2025, the petitioner has also challenged the order dated 14.10.2025 and the clarificatory letter dated 15.10.2025, simultaneously challenging the provisions of Regulation 5 of the Food Safety and Standards (Food Recall Procedure) Regulations, 2017. It is in the background of the aforesaid facts that the prayer for grant of interim relief has been made in support of which learned senior counsel for the petitioner submitted that the product of the petitioner has been in the market for two decades and that the stocks, which are in the market, cannot be recalled. It has further been stated by learned senior counsel for the petitioner that the petitioner has stopped manufacturing the product and that it is also ready for rebranding its product as per the suggestion/advice given by the orders of the Authority. It has also been argued on behalf of the petitioner that it is absolutely unfair to treat the product of the petitioner as an adulterated drug. Further submission in this regard is that whatever precautions were suggested by the Authority by its earlier orders dated 14.07.2022 and 02.02.2024, are



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being followed and will be scrupulously adhered to.

16. Learned senior counsel for the petitioner have also contended that this Court while disposing of the W.P.(C) 16217/2025 by permitting the petitioner to make a representation and directing the Authority to take a decision on the said representation had stayed the operation of the orders dated 14.10.2025 and 15.10.2025, and as such it is imperative for this Court to grant the interim relief in this petition as well, otherwise, the petitioner shall suffer irreparable loss and injury which cannot be compensated in any manner. Learned senior counsel have also stated that the petitioner is ready to bring out appropriate advertisement to create awareness. It is also contended that as a matter of fact the product manufactured by the petitioner is not harmful at all even as per the Authority, and therefore, stopping the petitioner to dispose of the stock in the market will result into heavy loss to the petitioner, and therefore, it would be appropriate to allow the petitioner atleast to sell the stock currently lying in the market.

17. The prayers made by the petitioner, however, have vehemently been opposed by Mr.Chetan Sharma, learned ASG representing the respondent, by stating that the challenge to the orders dated 14.10.2025 and 15.10.2025 has already been failed, as per judgment of learned Single Judge of this Court in ***Dr.Reddy's Laboratories Limited & Ors. v. Union of India & Anr.***, in W.P.(C)16303/2025, as the said writ petition has been dismissed by means of an order dated 31.10.2025, and, therefore, grant of interim reliefs as is being prayed by the petitioner is not warranted.

18. Drawing our attention to the order dated 31.10.2025 passed in W.P.(C)16303/2025 it has been contended by learned ASG that while dismissing the said writ petition the learned Single Judge has noticed the order dated 30.10.2025, which is under challenge herein, and has observed that the



order dated 30.10.2025 extensively examines various facets of the matter and further that in the light of the said order dated 30.10.2025 the learned Single Judge refused the relief prayed for in the writ petition where challenge was made to the orders dated 14.10.2025 and 15.10.2025. Learned ASG has referred to para 14 of the said order dated 31.10.2025, which reads as under:-

“14. In the circumstances, this Court is not inclined to interdict with the impugned orders, in light of the aforesaid order dated 30.10.2025 passed by the FSSAI. This is particularly in light of the deleterious effect and adverse health outcomes (as noticed in the aforementioned order dated 30.10.2025, issued by FSSAI) in the event of consumption of the offending products by those who are in medical need of an ORS (Oral Rehydration Salts) formulation.”

19. It has also been argued on behalf of the respondents that interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India in such matters has to be minimal, considering the fact that on an issue which could endanger public health gravely, the approach of caution adopted by the respondents cannot be faulted with. It has also been argued that in such matters, safeguarding the larger public interest is of paramount importance and that the larger public interest of public health should give way to the individual loss to the manufacturer and therefore, at the cost of endangering public health, the interim relief prayed for by the petitioner cannot be granted.

20. Having heard the learned counsel for the parties, we are not inclined to grant the interim relief as prayed for in this interim application for the reason that though the earlier orders dated 14.10.2025 and 15.10.2025 do not disclose any reason for withdrawing the orders dated 14.07.2022 and 02.02.2024, which permitted the FBOs to use the brand name “ORS” with prefix or suffix, however, the order dated 30.10.2025 gives detailed reasons and discusses the relevant aspects of the matter including the provisions of the Act and the



regulations framed thereunder and it is only thereafter that the Authority has concluded that the representation made by the petitioner against the earlier orders dated 14.10.2025 and 15.10.2025 is not worth being accepted.

21. A perusal of the order dated 30.10.2025, which is under challenge herein, reveals that the Authority, while passing the said order, has taken into consideration the overreaching public interest and public safety concerns and accordingly has affirmed the earlier orders dated 14.10.2025 and 15.10.2025. The reasons given in the said order dated 30.10.2025 can be examined by the Court only once a response to the petition is filed; however, considering the overreaching public interest and public safety concerns, we are of the opinion that granting the interim relief as prayed for by the petitioner, is unwarranted. It is true that the product manufactured by the petitioner is not adulterated or unsafe for use, but it is unsafe for use for them who are unfit to use the same and may cause health hazards to those who are suffering from diarrhoea and gastroenteritis for the reason that “ORS” is generally used by the patients suffering from diarrhoea and gastroenteritis, and on misbranding, if such patients use the product of the petitioner, the same will lead to health safety concerns of the public.

22. It is true that the impugned orders have been passed not because the product manufactured by the petitioner is sub-standard or adulterated, rather the basis of the order is misbranding of the product of the petitioner, which has a potential to raise public health concerns and use of such product may result in loss of life if the same is used by the patients suffering from diarrhoea and gastroenteritis especially the children.

23. A Division Bench of this Court in ***Dharampal Satyapal Ltd. v. Union of India***[2024 SCC Online Del 4702] has observed that in such matters, safeguarding the larger public interest is paramount, and therefore, the larger



interest of public health would outweigh the individual loss to the manufacturer or licensee. Paragraphs 34 of the said judgment is extracted hereinbelow:-

“34. In view of the aforesaid, this Court is of the opinion that the impugned Regulation gives effect to the legislative intent of safeguarding the larger public interest which is paramount and as held by the Supreme Court in Unicorn Industries (Supra), the larger public interest of public health would outweigh the individual loss to the manufacturer/licensee like the Petitioners herein. The reliance placed by the Petitioners on the judgments of Anuradha Bhasin (Supra) and Om Kumar (Supra) is, therefore, not applicable in the facts of this case.”

24. As already observed above, the validity of the order dated 30.10.2025 can be gone into by this Court in the instant petition only once a response to the petition is filed by the respondents and after considering the same, issue raised herein can be decided. However, in our opinion, till the disposal of the petition, permitting the petitioner to dispose of its stocks in the market will not be in the public interest, rather will be contrary to it.

25. In case the writ petition ultimately fails, permitting the sale of the product manufactured by the petitioner at this juncture in the face of the impugned order dated 30.10.2025, may prove fatal, causing serious public health issues.

26. For the reasons aforesaid, we are of the opinion that the petitioner has failed to make out a case for grant of interim relief; accordingly, the prayers made in this interim application are hereby rejected.

27. The application stands dismissed.

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28. Issue notice to the respondents. Mr.Ashish K. Dixit, learned CGSC and Mr.Aditya Singla, learned counsel accept notice for the respondent nos.1 and 2 respectively.



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29. Let affidavit in reply be filed by the respondents within a period of four weeks. Rejoinder thereto, if any, be filed by the petitioner within two weeks thereafter.

30. List on 09.02.2026.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 12, 2025

S.Rawat