

Executive Summary

Food safety covers the entire food chain, and includes the stages of manufacturing/preparation, handling, transportation and storage of food in ways that prevent contamination and food borne diseases. Any relaxation of food safety standards and their enforcement may lead to proliferation of illegal, dishonest manufacturers and suppliers, which is detrimental to public health. Good understanding among governments, producers and consumers may contribute towards ensuring food safety along with efficient and effective enforcement.

After Independence, the Prevention of Food Adulteration Act (PFA), 1954 was the primary law governing foods safety, along with other laws/orders specifically targeting the food sector. Proliferating laws over the years with varying standards and enforcement agencies spread across various Ministries and departments in the Central and state governments led to confusion among consumers, traders, investors and manufacturers. Inadequate manpower, food laboratories and other resources under various authorities administering these laws, affected the effective fixing of science based food standards and their enforcement. Parliament enacted the Food Safety and Standards Act, 2006 to overcome the difficulties and to consolidate and subsume the existing Acts and Orders and establish a single point reference system in the country and to establish the Food Safety and Standards Authority (Food Authority) for laying down science based standards and regulating the manufacture, storage, distribution, sale and import of food products to ensure availability of safe and wholesome food for human consumption. The Act does not apply to any farmer or fisherman or farming operations or crops or livestock or aquaculture or supplies used or produced in farming or products of crops produced by a farmer/fisherman at initial production level.

This performance audit on food safety was taken up with a view to assess the performance of the Ministry of Health and Family Welfare (the Ministry), Food Authority, and the food authorities in ten selected states.

The important findings of the performance audit are given below:

Regulatory and Administrative Framework

- Even after more than a decade of the enactment of the Act, the Ministry and Food Authority are yet to frame regulations governing various procedures, guidelines and mechanisms enunciated in different sections of the Act.

(Para 2.2)

- Food Authority failed to devise action plans to identify areas on which standards are to be formulated/revised within specified time frames and the manner of selection of food products for formulation of standards. FSSAI has, for some food categories, entrusted the task of suggesting revision of standards to representatives of the food business operators (FBO), whose opinions cannot be considered unbiased. FSSAI notified regulations and standards without considering the comments of stakeholders. Primarily because of the absence of policy guidelines and standard operating procedures (SOP), Food Authority took between one year and three years to notify amendments.

(Para 2.5, 2.6 & 2.7)

- Possibility that unsafe/declared unsafe food articles continued to be manufactured and sold is not ruled out due to failure of the Authority to monitor and cancel licenses issued under the product approval system declared unlawful by the Supreme Court.

(Para 2.8)

- FSSAI continues to issue directions without following the procedure of previous approval of the Central Government, previous publication and notification (as contained in section 92 of the Act), the placing of such regulations and rules before Parliament (as contained in section 93 of the Act), despite the Supreme Court declaring such procedure as mandatory. Audit noticed many instances where FSSAI issued directions and notified regulations without the requisite approval of Food Authority and the Ministry.

(Para 2.9, 2.10 & 2.11)

- Despite recommendation of the Central Advisory Committee (CAC) that at least *75 per cent* of the food license fee collections should be used for Information, Education and Communication (IEC) activities, most states had not allocated any budgets for these activities.

(Para 2.16)

Licensing, Registration, Inspection and Sampling

- FSSAI and state food safety authorities did not conduct survey for enforcement and administration of the Act and of the FBOs under their jurisdiction, though required to do so under the Act.

(Para 3.1.1)

- Licenses were issued on the basis of incomplete documents in more than *50 per cent* of cases test checked in Audit.

(Para 3.1.5)

- Neither FSSAI nor the state food authorities have documented policies and procedures on risk based inspections, and the FSSAI does not have any database on food business.

(Para 3.2)

- FSSAI has failed to ensure that the Customs authorities follow up the Non-Conformance Reports issued by the FSSAI, and take appropriate action to ensure that unsafe foods do not enter the country.

(Para 3.6.3)

Analysis of Food and Prosecution

- 65 out of the 72 State food laboratories to which FSSAI and state food safety authorities sent food samples for testing do not possess National Accreditation Board for Testing and Calibration Laboratories (NABL) accreditation. Consequently, the quality of testing by these laboratories cannot be assured.

(Para 4.3)

- Though the Act stipulates gazette notification of empanelled food laboratories, FSSAI empanelled, between September 2011 and March 2014, 67 food laboratories through office orders.

(Para 4.4.1)

- FSSAI has no data on public analysts declared eligible under the erstwhile Prevention of Food Adulteration Act who continue to function under the FSS Act. FSSAI also has no data on whether all the notified empanelled food laboratories have qualified food analysts. Audit test check found that 15 out of the 16 test checked food laboratories did not have qualified food analysts.

(Para 4.6.1)

- Shortage of qualified manpower and functional food testing equipment in state food laboratories and referral laboratories resulted in deficient testing of food samples.

(Para 4.7.1 & 4.7.2)

- There were significant delays in finalization of cases by Adjudicating Officers. Further, a significant portion of the penalty imposed remained uncollected.

(Para 4.9.1)

Human Resources

- Failure of the Ministry and the FSSAI to frame the recruitment regulations even after a decade of the enactment of the Act, resulted in acute shortages of regular staff at various levels.

(Para 5.2 & 5.3)

- Acute shortage of licensing and enforcement officers (Designated Officers and Food Safety Officers) in the states severely affected food safety measures in the states.

(Para 5.9)

Recommendations:

Based on the audit findings, some of the recommendations are provided below:

- *Ministry/FSSAI may expedite the notification of regulations on areas that have been specified in the Act, but are yet uncovered.*
- *FSSAI may frame standard operating procedures on the formulation and review of standards, and ensure that these are adhered to.*
- *FSSAI may ensure that all licenses issued under the erstwhile system of product approvals are reviewed, and licenses cancelled and reissued as warranted under the present procedure.*
- *FSSAI may review all directions issued under section 16(5) of the Act in the light of directions of the Hon'ble Bombay High Court and Hon'ble Supreme Court.*
- *FSSAI and state food authorities may conduct surveys of food business activity under their jurisdiction to ensure a comprehensive and reliable database of FBOs and to ensure better enforcement and administration of the FSS Act.*
- *FSSAI may frame and notify policy guidelines and procedures on risk based inspections, including the periodicity of inspections. All states may be persuaded to specify the periodicity of inspections and ensure that the periodicity is adhered to.*
- *Ministry is required to ensure accreditation of all state food laboratories, and ensure that state food laboratories and referral laboratories are fully equipped and functional.*
- *The Ministry/FSSAI may take steps to expeditiously notify the recruitment regulations and fill up vacancies.*