

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

WP No. 35120 of 2026

*(M/S SAYAJI HOTELS (INDORE) LIMITED THROUGH ITS AUTHORIZED SIGNATORY, KRISHNA GOYAL Vs
FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA THROUGH ITS REGIONAL DIRECTOR AND
OTHERS)*

Dated : 22-08-2026

Shri Sumit Nema, Senior Advocate assisted by Shri Arun Dwivedi and

Ms. Yashika Bondwal - Advocate for the petitioner.

Dr. Amit Bhatia - Advocate for the respondent/State with Mr. Manish Kumar

Swami - Food Safety Officer Fda Indore.

Heard on the question of admission and interim relief.

The present petition under Article 226 of the Constitution of India is directed against an order dated 21.08.2026 passed by licensing and designated Authority, Food and Safety Department, Indore/respondent No.5 whereby the license issued to the petitioner under the provisions of Food and Safety Standards Act, 2006 dated 31.07.2023 bearing license No.11414850003172 was suspended alleging certain shortcomings during the inspection/search at the petitioner's hotel premises on 20.08.2026.

The petitioner is a hotel engaged in the business of hospitality and food services and is carrying on its business from the premises situated at scheme No.54, Vijay Nagar, Indore. Food and Safety license as mentioned above was issued to the petitioner which was renewed on 31.07.2023 and is valid upto 29.04.2028 which authorised the petitioner to undertake food license activities i.e food services for restaurants, clubs/canteens and hotel.

On 20.08.2026, the officers of food standard and safety authority of India alongwith food safety officer i.e respondent No.6 conducted an inspection/search at the petitioner's hotel premises which commenced at 8:30 PM and continued till

the next day i.e 21.08.2026. During the aforesaid inspection, the inspecting team collected certain samples and food articles for the purpose of statutory analysis and issued form V-A. They also prepared a seizure/sample memo regarding the details of various food articles collected from the petitioner's hotel premises for the purpose of further investigation and analysis but before the respondents could arrive at any final analytical determination regarding the articles being unsafe, adulterated or otherwise not conforming to the prescribed standards, suspended the petitioner's license and sealed its kitchen on the very same day. Thus, alleging the said action to be premature, presumptive and contrary to the statutory schemes for sampling and analysis under the food safety and standards Act, 2006, the present petition has been filed.

Learned Senior Counsel Shri Sumit Nema alongwith Shri Arun Dwivedi and Ms.Yashika Bondwal while referring to the provisions of Section 32 of the Food and Safety and Standards Act, 2006 and Regulation 2.1.8 of the Food Safety & Standards (Licensing and Registration of food businesses) Regulations, 2011 has vehemently argued that invoking proviso to Sub-Section 3 of Section 32 directly without following the procedure as mandated in Sub-Section 1, 2&3 of Section 32 in the present circumstances was wholly unwarranted as the shortcomings which were pointed out in the impugned order dated 21.08.2026 did not fall in the exceptional circumstances which could had compelled the respondent/Authorities to suspend the license forthwith in the interest of public health and safety.

Learned counsel further submitted that if the designated authority believed that the petitioner had failed to comply with the regulations to which Section 32 applies, he first should have given an improvement notice to the petitioner stating the grounds for believing that the petitioner had failed to comply with the

regulation, specify the matters which constitute petitioner's failure so to comply, specify the measures which in the opinion of the said authority should have taken to secure compliance and was required the petitioner to take those measure or measures which were atleast equivalent to them within a reasonable period not being less than 14 days as may be specified in the notice and only when the petitioner would have failed to comply with the said improvement notice, the license could have been suspended. Therefore, the action of the respondents in straightway suspending the food safety license of the petitioner without providing opportunity of hearing to rectify the defects is perverse and illegal.

Learned counsel further submitted that from bare perusal of the impugned order it would be evident that the drastic action for suspending the license forthwith in the interest of public health was not made out and even no reasons were recorded as warranted by proviso to Section 32(3) of the Act, 2006, therefore the very action of suspending license cannot be sustained. In support of his arguments reliance was placed in the matter of *Wardha Tahsil Godugdha Utpadak Sahakari Sangh Ltd. vs. State of Maharastra and Ors.* reported in 2026 SCC Online Bombay 9345 wherein while discussing the guiding principles as provided under Section 18 of the Act of 2006 which deals with general principles to be followed in the administration of Act the Division Bench had held that the guiding principles as provided under the aforesaid section has a legislative restrictions establishing the goals for enforcement and such guiding principles dictates how authorities must exercise the powers ensuring decision aligning with the object of the Act. It is further in compliance with the Article 14 of the Constitution of India forbid the authority to act in reasonably unfairly and arbitrary manner.

Thus, he prayed that as an interim measure till the decision of this petition,

the effect and operation of Annexure P-6 dated 21.08.2026 be stayed.

On the other hand, learned counsel for the respondents on advance copy has resisted the prayer for grant of ad interim relief. His first limb of argument is that under the regulations, the petitioner's hotel being of 5 star category, was required to get a central license for providing food services for restaurants, clubs/canteens, hotels but admittedly the license which has been procured by the petitioner hotel is issued by State, therefore, the very activity of providing food articles was illegal and this is one of the shortcomings which has been found and is mentioned in clause 23 of the impugned order.

He further submitted that apart from certain other irregularities, glaring examples of violation of standards were also found which included packed articles without manufacturing date, expiry dated or batch number, expiry date boiled potatoes, ground nuts containing fungus, chickpeas containing woodworm, weevil or mite and apart from that cockroaches, rats and their beat were also found. Thus, serving of such food articles in such filth to the customers could not have been ruled out and there was every possibility of it being unhealthy, unsafe, adulterated or otherwise not conforming to the prescribed standards.

Apart from the aforesaid arguments learned counsel has also argued that the present petition in wake of availability of alternative remedy of appeal to the Commissioner of Food Safety under Sub-Section 4 of Section 32 of Act of 2006 and also being devoid of merit and substance is liable to be dismissed.

Heard.

After perusal of the impugned order and after hearing the counsel for the parties this Court finds that in all total 24 shortcomings were found by the respondents during the inspection/search at the petitioner's hotel premises. One of the shortcomings as mentioned in clause 23 is that the petitioner was required to

obtain Central License since it was of 5 star category. This shortcoming though prima facie appears to be genuine, according to this Court could not had been a ground for suspending the license forthwith under the proviso to Sub-Section 3 of Section 32 of the Act, 2006 as the said suspension could only be in the interest of public health, for the reasons to be recorded in writing and since possession of State License and not the central license would not had in any way prejudiced the public health. On this ground, the license could not had been suspended.

Likewise the shortcomings which has been shown regarding procurement of certain food articles without having any manufacturing/expiry date or batch number or finding of certain food articles in squalor in midst of cockroaches and rats and, their beets would not entail invocation of the proviso automatically rather a opportunity was required to be given to rectify the said shortcomings, by serving an improvement notice thereupon. Therefore, justification of direct action of suspension of license without providing any opportunity to the petitioners to rectify the defects as envisaged to the provisions contained in Section 32 of the Act, 2006 warrants consideration.

It is also noteworthy that the impugned order does not spell any adequate reasons to show that it was imperative in the interest of public health to straightway suspended the license and that service of notice a lesser measure, in the consideration would not have served the purpose. Therefore, invocation of the proviso of sub-Section 3 of Section 32 of the Act, 2006 also warrants consideration.

Thus, there is prima facie material available to sustain an inference that the impugned order was passed in breach of provisions of Act, 2006 and regulation 2.1.8 of the Regulation, 2011 which justifies the exercise of jurisdiction despite existence of statutory remedy of appeal.

Hence, issue notice to the respondents on payment of P.F within 7 working days by RAD mode, returnable within two weeks.

In the meanwhile, the effect and operation of the impugned order dated 21.08.2026 shall remain stayed. The respondents are directed to forthwith open the kitchen of the petitioner's hotel.

List after two weeks.

(MILIND RAMESH PHADKE)
JUDGE

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