

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8429 OF 2026

Sanjay Baburao Nirbhavne,]
Senior Manager of M/s. Lotus Pond Hotel Pvt. Ltd.] .. Petitioner

Versus

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|--|---|----------------|
| 1. The State of Maharashtra, |] | |
| Food and Drug Administration Department |] | |
| 2. The Commissioner, |] | |
| Food & Drug Administration |] | |
| 3. The Joint Commissioner (Konkan Division), |] | |
| Food and Drug Administration (M.S.) |] | |
| 4. The Assistant Commissioner (Food) |] | |
| and Designated Officer, |] | |
| Food and Drug Administration |] | |
| 5. Food Safety Officer, Thane Zone-02, |] | |
| Food and Drug Administration (M.S.) |] | |
| 6. Union of India, |] | |
| Ministry of Health and Family Welfare |] | |
| 7. Food Safety and Standards Authority of India, |] | |
| (FSSAI), New Delhi |] | .. Respondents |

Mr. Mayur Khandeparkar with Ms. Shobhra Swami, Mr. Sagar Shetty and Ms. Meghna Vijan, i/by Mr. Sagar Shetty, Advocates for the Petitioner.

Mrs. Neha S. Bhide, Government Pleader with Mrs. Pooja Patil, AGP for the Respondent-State of Maharashtra.

**CORAM : RAVINDRA V. GHUGE, ACJ. &
GAUTAM A. ANKHAD, J.**

DATE : 29th July, 2026.

P.C. :

1. The Petitioner is engaged in the business of operating a hotel establishment under the name 'Park INN by Radisson'. It holds a valid licence under the Food Safety and Standards Act, 2006 ('the Act'), which remains valid until 7th March, 2031.

2. On 2nd July, 2026, Respondent No.5 conducted a surprise inspection at the Petitioner's establishment. The inspection revealed several deficiencies and instances of non-compliance with the provisions of the Act, the Rules and the conditions of the licence. On the following day, i.e. 3rd July, 2026, Respondent No.3, invoking the proviso to Section 32(3) of the Act read with Regulation 2.1.8(iv) of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011, passed an order suspending the Petitioner's licence with immediate effect. The order directed the Petitioner to forthwith cease and desist from carrying out any food business activity. The suspension order has been impugned in this Petition.

3. Mr. Khandeparkar, learned counsel appearing for the Petitioner, submits that the power to suspend a licence forthwith under the proviso to Section 32(3), is an extraordinary power intended to be exercised only in situations involving an immediate threat to public

health. Before invoking such drastic powers, the Designated Officer is required to record reasons in writing demonstrating the existence of circumstances warranting immediate suspension. According to the learned counsel, the impugned order discloses no such reasons and amounts to an impermissible exercise of power by ignoring the statutory scheme under Section 32, which ordinarily contemplates issuance of an improvement notice and an opportunity to rectify the deficiencies. It is, therefore, submitted that the impugned order is arbitrary, disproportionate and contrary to the legislative intent underlying Section 32 of the Act.

4. Per contra, Ms. Bhide, learned Government Pleader appearing for Respondent No.1, supports the impugned order dated 3rd July, 2026. She submits that the surprise inspection disclosed serious lapses in hygiene, sanitation, food storage and food handling practices, justifying immediate action in the interest of public health and consumer safety. An establishment engaged in preparation and service of food owes a continuous duty to maintain the prescribed standards of hygiene and sanitation and any serious deviation from such standards warrants prompt regulatory intervention. She invited our attention to the inspection photographs annexed to the affidavit-in-reply dated 14th July, 2026, and submitted that the Petitioner had secured only 65 out of 108

marks, reflecting merely 61% compliance, thereby fully justifying the exercise of powers under Section 32(3). Hence, no case for interference under Article 226 of the Constitution is made out.

5. We heard the learned counsel for the parties on several dates. We record our appreciation for the efforts undertaken by Respondent Nos.1 to 5 in enforcing the provisions of the Food Safety and Standards Act, 2006 and the Regulations framed thereunder. However, during the course of hearing, this Court considered it appropriate to ascertain the Petitioner's level of compliance. Accordingly, by an order dated 17th July, 2026, Respondent No.2 was directed to constitute a Special Committee to conduct a fresh inspection of the Petitioner's establishment. On 18th July, 2026, the Committee inspected the premises and reported that although the Petitioner's compliance had improved to 79%, several deficiencies still persisted.

6. At the Petitioner's request, a second inspection was directed by order dated 22nd July, 2026. A copy of the report comprising of 51 pages along with documents and photographs is tendered by the learned Government Pleader which is taken on record and marked 'X' for identification. The inspection report dated 22nd July, 2026 reveals that the Petitioner secured 81 out of 86 marks, amounting to 95% compliance,

and was awarded Grade 'A' with the overall assessment recorded as 'Compliance/Satisfactory'. The only adverse observation noted in the report was the presence of two insects in the dish-washing and sweet section of the kitchen premises, thereby indicating that the deficiencies were not completely rectified.

7. In our view, the subsequent developments alter the factual position that existed when the impugned order dated 3rd July, 2026 was passed. The very object of suspension under the proviso to Section 32(3) is preventive in nature, namely, to safeguard public health until the identified deficiencies are rectified. Once it is demonstrated, on the basis of an independent inspection conducted pursuant to the orders of this Court, that the establishment has substantially remedied the deficiencies and has attained 95% compliance, the continuance of the suspension order ceases to serve the purpose for which it was originally imposed.

8. The solitary finding regarding the presence of two insects, when viewed in the context of the overall inspection report recording the establishment as 'Compliant/Satisfactory', does not justify the continued suspension of the Petitioner's licence. We accept the statements and undertakings of the Petitioner that it shall continue to maintain the highest standards of hygiene and sanitation and shall ensure strict

compliance with the provisions of the Act, the Rules, the applicable Regulations and the conditions of its licence in relation to the storage, preparation and service of food. In these peculiar facts, we do not consider it necessary to adjudicate the larger question canvassed by the Petitioner regarding the scope and ambit of the power under the proviso to Section 32(3), including whether an improvement notice is an indispensable pre-condition before directing immediate suspension. We expressly keep all questions of law in that regard open for determination, in an appropriate case. Needless to observe, any future breach by the Petitioner shall entitle Respondent Nos.2 and 3 to take action in accordance with law.

9. Accordingly, **the Petition is allowed** in terms of prayer clauses (a) and (b), which read as under:-

“(a) Issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature thereof calling for the records and proceedings pertaining to the order of forthwith suspension dated 03/07/2026 bearing No.FSSAI/SSK/Susp.Order/01/2026/02 issued by Respondent NO.3 and after examining the legality, validity and propriety thereof be pleased to quash and set aside the same;

(b) Issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, directing the Respondents to forthwith revoke the suspension of the Petitioner’s FSSAI Licence No.11521015000007 and restore the same, allowing the Petitioner to carry on its business activities.”

10. Before parting with this matter, when we posed a query to the learned Government Pleader as to whether all eating houses and establishments in the State of Maharashtra, including those eating houses, which are operated by statutory authorities or State instrumentalities or Semi Government Establishments, have been inspected by the Food and Drugs Department in this drive under the Food Safety and Standards Act, 2006, the learned Government Pleader informs us that by the day after tomorrow, the Court will be apprised of the details of inspections carried out all over the State of Maharashtra, including of any eating establishments operated by the Government or Semi Government institutions or on contract basis with any Government Department, etc.

11. List this disposed off Petition on **31/7/2026**, in the Urgent Supplementary Board, for compliance.

[GAUTAM A. ANKHAD, J.]

[ACTING CHIEF JUSTICE]

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