



2026:DHC:7174



\$~

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

%

*Judgment reserved on: 13.08.2026**Judgment pronounced on: 25.08.2026**Judgment uploaded on: 26.08.2026*# **CNR No. DLHC010273942026**+ **W.P.(C) 8602/2026****FDC LIMITED**

.....Petitioner

Through: Mr. Sanjay Jain and Ms. Priya Kumar, Senior Advocates with Ms. Vanshika Singh, Mr. Prithvi Singh, Mr. Rohan Seth, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agrawal and Mr. Shreyan Srivastava, Advocates

versus

UNION OF INDIA AND ANOTHER

.....Respondents

Through: Mr. Raktim Gogoi, CGSC alongwith Ms. Akshita Nigam and Mr. Kaushlendra Dutt Pandey, Advocates for R-1
Mr. Amit Meharia Ms. Tannishtha Singh and Mr. Shashwat Roy, Advocates for R-2

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J****CM APPL. 40264/2026 (stay)**



1. By way of the above-captioned petition, the following prayers are sought by the petitioner:

“...a. issue a writ of certiorari, or an order or direction in the nature of certiorari, quashing and setting aside the FSSAI Notice dated 26th May, 2026 (No. RCD-15001/12/2022-Regulatory-FSSAI, 1/38389/2026) issued by Respondent No. 2.

b. In the alternate, grant a time period of 8 months to exhaust all stock in which the label contains the word/ term “electrolyte” and/or “electrolyte drink”.

c. Direct the Respondents to refrain from taking any further action (including but not limited to seizure and destruction) pursuant to or in furtherance of the Impugned Notice, and from issuing any further communications to State/UT authorities about Enerzal.

d. Hold that the seizures reflected in the Panchama/ seizure notice in Annexures P-4, P-5 and P-6 are illegal.

e. Issue a writ of mandamus, or an order or direction in the nature of mandamus, directing Respondents Nos. 1 and 2 to forthwith issue appropriate directions to the concerned State/UT Food Safety Authorities to de-seal and release for sale the seized Enerzal products from all three locations mentioned in paragraphs 17, 18 and 19....”

2. The petitioner has also filed the present application seeking interim relief, wherein the following prayers have been made:

“a. Stay the operation of the Impugned Notice dated 26th May 2026 issued by the Respondents (No. RCD-15001/12/2022-Regulatory-FSSAI, I/38389/2026).

b. Direct the Respondents to refrain from taking any further action (including but not limited to seizure and destruction) pursuant to or in furtherance of the Impugned Notice, and from issuing any further communications to State/UT authorities about Enerzal;

c. Direct Respondents Nos. 1 and 2 to issue appropriate directions to the concerned State/UT Food Safety Authorities to de-seal and release for sale the seized Enerzal products from all three locations mentioned in paragraphs 7, 8 and 9 above.

d. Direct Respondents Nos. 1 and 2 to forthwith issue



2026:DHC:7174



appropriate directions to all State/UT Food Safety Authorities to not conduct any further raids, searches, seizures, or other enforcement action against the Petitioner in relation to its Enerzal products, pursuant to or on the basis of the Impugned Notice.”

3. The present application is accordingly being considered for the limited purpose of determining whether any interim relief ought to be granted to the petitioner pending adjudication of the writ petition.

4. The brief facts of the case are that the petitioner, FDC Limited, a company incorporated in the year 1940, is engaged, inter alia, in the manufacture and marketing of a hydration and electrolyte drink under the brand name ‘Enerzal’. It is stated that the petitioner has been holding FSSAI Licence No. 10014022002634 since 28.01.2017, which licence has been renewed from time to time, the most recent renewal being on 28.01.2026. It is further stated that the front-of-pack label of Enerzal has, since the year 2018, carried the descriptor ‘Energy and Electrolyte Drink’, which description was duly placed before and scrutinised by respondent no. 1 at each stage of licensing and renewal, including as recently as in January 2026. It is stated that, on 26.05.2026, respondent no. 2, functioning from FDA Bhawan, Kotla Road, New Delhi, issued the impugned notice to the petitioner, directing it to cease using the descriptors ‘electrolyte’, ‘electrolyte drink’, or any similar term for its products, and further directing that the Food Category System under Appendix A of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011, should not be relied upon for product



2026:DHC:7174



naming or labelling. It is stated that the said impugned notice was simultaneously endorsed to the Commissioners of Food Safety of all States/UTs and to the Central Licensing Authorities for “initiating necessary action as per provisions of FSS Act, Rules and Regulations thereof.”

5. It is the case of the petitioner that, pursuant to and at the behest of the impugned notice, the Food Safety Officers of the State of Maharashtra conducted search and seizure operations at the petitioner's premises at Karodi and Waluj (Chhatrapati Sambhajinagar) on 02.06.2026, at Sonegaon MIDC, Nagpur on 03.06.2026, and thereafter at the premises of the petitioner's stockist at Chhatrapati Sambhajinagar on 17.06.2026, and seized Enerzal stock cumulatively valued at approximately ₹1.12 crore. It is stated that the stock seized from the premises at Waluj and the depot at Chhatrapati Sambhajinagar was valued at approximately ₹36,00,172/- and ₹20,78,676/-, respectively, while the stock seized from the premises at Nagpur was valued at approximately ₹55,67,779.68/-. A further quantity of Enerzal stock valued at approximately ₹1,01,675/- was seized at Chhatrapati Sambhajinagar on 17.06.2026. It is stated that no improvement notice or show-cause notice under Section 32 of the Food Safety and Standards Act, 2006 was ever issued to the petitioner prior to the said seizures and that, despite repeated representations dated 29.05.2026, 03.06.2026, 05.06.2026 and 08.06.2026, as well as a meeting held with the officials of respondent



2026:DHC:7174



no. 1 on 05.06.2026, the seized stock has not been released. It is further stated that the petitioner submitted a stock statement and proposed revised label to the respondents on 08.06.2026. Aggrieved thereby, the petitioner has approached this Court.

6. The learned senior counsel appearing for the petitioner submits that the label of Enerzal, carrying the descriptor 'Energy and Electrolyte Drink', has been in use since 2018 and has been scrutinised by respondent no. 1 at the time of successive licence renewals, including the most recent renewal on 28.01.2026, without any objection. It is submitted that the descriptor merely reflects the composition and true nature of the product, which contains electrolytes, and is supported by scientific data. It is, therefore, contended that the issuance of the impugned notice four months after the latest licence renewal is inconsistent with the earlier position of the respondents. The learned senior counsel argues that the impugned notice directs the petitioner to cease using the descriptors 'electrolyte' and 'electrolyte drink' and not to rely upon the Food Category System under Appendix A of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011, but does not refer to any specific provision of the Food Safety and Standards Act, 2006 [hereafter '**FSS Act**'] or the regulations as the basis for such directions. It is further submitted that no show-cause notice or improvement notice under Section 32 of the FSS Act was issued to the petitioner before the impugned notice or



the subsequent seizures, thereby denying it an opportunity to explain its position. It is further submitted that the impugned notice was circulated to the State/UT authorities and was followed by seizure of the petitioner's stock in Maharashtra. The learned senior counsel also submits that similarly situated companies were given an opportunity to modify their labels and seek time for voluntary compliance, whereas no such opportunity was given to the petitioner. The petitioner, therefore, seeks a period of eight months to exhaust its existing stock, release of the seized stock, and restraint against further coercive action pursuant to the impugned notice during the said period.

7. On the other hand, the learned counsel appearing for respondent nos. 1 and 2 submits that the impugned notice was issued after due consideration of the use of the descriptors 'electrolyte' and 'electrolyte drink'. It is submitted that all concerned Food Business Operators [hereafter '**FBOs**'], including the petitioner, were informed by emails dated 04.05.2026 and 05.05.2026 of the meeting held on 07.05.2026 to discuss the issue, but the petitioner failed to participate. The impugned notice was thereafter issued in exercise of FSSAI's statutory functions under Section 18(1)(a) of the FSS Act, with the object of ensuring truthful labelling and protecting consumer interests. Section 18(1)(a) reads as under:

“...(a) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumers' interests, including fair practices in all kinds of food trade with



reference to food safety standards and practices.”

8. It is further submitted that the petitioner’s product falls under Food Category 14.1.4.2 and is governed by the relevant provisions of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. The relevant provision is reproduced below:

“2.3.10: Thermally Processed Fruit Beverages / Fruit Drink/
Ready to Serve Fruit Beverages

Thermally Processed Fruit Beverages / Fruit Drink/Ready to serve Fruit Beverages (Canned, Bottled, Flexible Pack And/ Or Aseptically Packed) means an unfermented but fermentable product which is prepared from juice or Pulp/ Puree or concentrated juice or pulp of sound mature fruit. The substances that may be added to fruit juice or pulp are water, peel oil, fruit essences and flavours, salt, sugar, invert sugar, liquid glucose, milk and other ingredients appropriate to the product and processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.”

9. The learned counsel submits that the use of the descriptors ‘electrolyte’ and ‘electrolyte drink’ was examined by the Scientific Panel, which found that such descriptors could not be used for food articles falling under Food Category 14.1.4.2. It is submitted that such descriptors, particularly when conveying physiological or therapeutic benefits, may fall within the regulatory domain of the Central Drugs Standard Control Organisation (CDSCO). The respondents accordingly contend that continued use of the descriptors could result in misleading product descriptions and consumer



deception. It is further submitted that the meeting held on 07.05.2026 was convened to ensure uniform implementation of the regulatory position and that all concerned FBOs were informed that continued use of such descriptors would attract appropriate action. Similar notices were thereafter issued to all concerned FBOs, including the petitioner, and circulated to the State Food Safety Commissioners, Central Licensing Authorities and Regional Directors. It is, therefore, submitted that the petitioner was neither singled out nor subjected to discriminatory treatment. It is also submitted that no extension of time can be granted for exhausting pre-printed packaging bearing the disputed descriptors, as this would permit continued use of what the respondents consider to be non-compliant labels. The search and seizure by the Food Safety Officers is stated to have been undertaken under Section 38 of the FSS Act. It is further submitted that the challenge to such seizure proceedings constitutes a separate cause of action for which the petitioner has an alternate statutory remedy before the concerned adjudicating authority. The respondents, therefore, oppose the grant of any interim relief.

10. However, the learned senior counsel appearing for the petitioner submits that the respondents were required to follow the procedure contemplated under Section 32 of the FSS Act before taking coercive action against the petitioner. It is submitted that, instead, a uniform decision was taken without affording the petitioner any opportunity to present its case or to seek compliance within a



reasonable period. On this basis, it is prayed that the operation and implementation of the impugned notice be stayed. In the alternative, the petitioner seeks eight months to make the necessary changes to its labels bearing the descriptors ‘electrolyte’ and/or ‘electrolyte drink’, with a restraint on further coercive action, including seizure or destruction of the existing stock, during this period.

11. The learned counsel appearing for the respondents, on the other hand, submits that the impugned notice was issued after a consultative process. It is stated that stakeholders were consulted on 26.02.2026 and that, *vide* email dated 04.05.2026, all concerned FBOs, including the petitioner, were informed of the meeting held on 07.05.2026 regarding the use of descriptors such as ‘electrolyte’ and ‘electrolyte drink’. It is submitted that the petitioner failed to participate in the said meeting and cannot, therefore, contend that it was denied an opportunity to present its case. It is further submitted that the impugned notice was issued under Section 18(1)(a) of the FSS Act as part of a uniform regulatory exercise and similar notices were issued to other FBOs using the same descriptors. It is, therefore, contended that the petitioner was not singled out and that no case for interim relief is made out.

12. Having **heard** the learned counsels appearing on behalf of the parties, this Court notes that it has nowhere been disputed in the pleadings or during the course of arguments that the improvement notice under Section 32 of the FSS Act had not been given to the



petitioner herein. However, without going into the merits of the case, since this Court is only dealing with the grant of interim relief, and in particular, the prayer for granting time to the petitioner to exhaust all its stock within a period of eight months and to change the label, and for restraining further seizure or destruction of the products, this Court is inclined to grant limited interim relief.

13. Accordingly, since the improvement notice had not been given to the petitioner, the operation of the impugned notice is stayed for a period of eight months. However, as per the statement made by the learned senior counsel for the petitioner, the petitioner shall exhaust all its existing stock within a period of eight months and shall make the required changes in its label.

14. With these directions, the present application stands disposed of.

W.P.(C) 8602/2026

15. List on date already fixed, i.e., 10.12.2026.

16. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

AUGUST 25, 2026/zp/A

TD