CHAPTER I

INTRODUCTION

Food Processing—a sunrise sector in India

From a starving nation in 1947 when it won political independence, India today is one of the world’s major producers of food. ‘One of India’s proudest accomplishments has been achieving self-sufficiency in food production and that the country produces a wide variety of agricultural products at prices that are at or below world values in most cases’—states the office of the agricultural affairs of the United States Department of Agriculture (USDA)\(^1\).

In fact, agriculture production in India has made rapid strides in the past three decades and enabled us to achieve self-sufficiency in food. India, with the second largest arable land in the world and with diverse agro climatic zones across the country, has tremendous production advantages in agriculture, with the potential to cultivate a vast range of agricultural products. India has strong base in agriculture and provides a large and varied raw material base for food processing. India is the world’s second largest producer of food ($694 billion) next to China.

Hon'ble Prime Minister of India, Dr. Manmohan Singh, while addressing the nation on the occasion of 61st Independence Day has announced that the government would increase farm spending by Rs. 25,000 crores to further increase the food production in the country\(^2\). It is believed that by the year 2020 while the rest of the world would be moving out of agricultural activity, India will be providing food to half the countries of the world.


\(^2\) The Tribune, Chandigarh, dated 16th August 2007 at 19.
Besides being one of the largest producers of the food, we produce over 91 million tonnes of milk (highest in the world), 150 million tonnes of fruits & vegetables (second largest), have 485 million livestock (largest), 212 million tonnes of food grain (third largest) and are significant producers of eggs, poultry and fish.\footnote{Food Processing Policy, by Ministry of Food Processing Industries, Govt. of India (2005).}

However, processing levels are low. Conservative estimates put processing levels in the Fruits & Vegetables Sector at 2%, Poultry 6%, Milk 35% (only 13% in modern dairies), Marine products 8%, Buffalo meat 21%. Processing in the areas of food grains, oilseed, tea, coffee, etc., where raw produce has perforce to be processed have the requisite levels of primary processing. Even in these products the demands of modern food processing sector are still emerging.

Employing over 120 lakh persons, the food-processing sector though in a nascent stage constitutes 13% of manufacturing GDP. Gross consumption of food in India is Rs. 8,60,000 crores. Of this the market size of primary processed food is Rs. 2,80,000 crores whereas value added food amounts to Rs. 1,80,000 crores. Food processing has grown at a rate of 7.1% per annum during the period 1993-94 to 2002-03. The higher rate of growth as compared to the Agriculture growth rate and the GDP growth rate is indicative of the increased availability of surpluses, changing life styles, tastes and higher disposable income with consumers. Within the food basket the growth rate for fruits and vegetables, milk, meat and poultry products and convenience snack foods have been higher than for staples like sugar, pulses and grains.\footnote{Ibid.}

And as a consumer, India with a population of 1.08 billion growing at about 1.6% per annum is a large and growing market for food products. Food is the single largest component of private consumer expenditure, accounting for as much as 53% of the total. Further, the upward mobility of income classes and increasing need for convenience and hygiene will drive demand for perishable, non-food

\footnote{Ibid.}
staples and processed foods. We have thus, tremendous natural advantages in the
development of food processing sector. A large raw material base, a vast pool of
scientific and technical manpower, a huge expanding market and a number of
premium food products provide a great opportunity to food processing industry
for exploitation of this potential.

However, despite substantial raw material base and inherent strength in this
sector, the growth of food processing industry has been sub-optimal because of
high cost and low level of domestic demand. The Government of India has taken
many steps to give impetus to this sector which include virtual de-licensing of the
sector, inclusion in the priority sector for lending, allowing 100% FDI except in
alcoholic beverages and retailing, several duty and tax reliefs, financial assistance
for infrastructure building, setting up of food processing units etc. In case of
export-oriented units, foreign investment is permitted even in case of items
reserved for small-scale sector. In addition, the export-oriented units are given a
number of incentives and concessions under the Export-Import Policy, such as,
duty free import of capital goods, raw materials and intermediates.

In the above backdrop, India has adopted "Vision 2015" which aims to triple the
size of food sector in 10 years time by increasing the level of processing of
perishables from 6% to 20%, value addition from 20% to 35%, share in global
trade from 1.6% to 3%. This would require making processed food affordable
domestically and competitive globally. An investment of about Rs. 1,10,000
crores is envisaged in the next ten years. Backed with increased support from
Government to this sunrise sector, India is now aspiring to be the Food Factory of
the world.

in India", at 33 (2005).
6 Abhay, "Statistics and Information about Agricultural Market in India" India Micro Finance Business
7 Ibid.
To realize its potential for growth, food-processing sector will have to build on its strengths and its ability to adjust to a changing global environment. To remain viable and enhance its market competitiveness in both domestic and international markets, the sector will have to focus on "market drivers" which are health and convenience issues globally added with the issues of price sensitivity for the domestic market.

To enhance global competitiveness of this sector the Government of India is in the midst of looking at a Vision, Strategy and Action Plan for this sector. This would address issues of taxation, organized retail, incentivizing infrastructure development, a relook at varietal availability of crops, marketing interventions and regulations, strengthening of the R&D and HRD infrastructure besides issues of food safety and regulation.

**Indian Food Laws-current status**

On the one hand India is aspiring to be the food factory of the world, on the other hand Indian laws governing this sector are characterized by multiplicity of regulations sometimes overlapping too, containing harsh, redundant & obsolete provisions and also fail to protect the interest of the consumers effectively.

There are a number of food laws being implemented by various Ministries/Departments of the Government of India. These are primarily meant for two purposes namely (1) Regulation of Specifications of food and (2) Regulation of Hygienic condition of Processing/Manufacturing. Some of these food laws are mandatory and some are voluntary. The details of various food laws in operation in India are as under:-

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9 Dr. Shruti Seth, "Horticulture Post Harvest Technology – Principles of Food Processing", at 25 (2007).
1. The Prevention of Food Adulteration Act, 1954 (Ministry of Health and Family Welfare)

This is the main Act governing the food sector, which lays down standards for various food products, and also the labeling requirements for packed food products. Implementing agency for enforcement of the provisions of this Act and the rules made thereunder is the respective State Government/U.T. Administration. Compliance of the provisions of this Act is mandatory in nature. The Act also lays down prosecutions & penalties for violation of the provisions of this Act.

2. Agriculture Produce (Grading & Marketing) Act, 1937 (Ministry of Agriculture)

This Act is commonly known as AGMARK and is voluntary. But in some cases compliance with the requirements of AGMARK has been made compulsory. For example in case of blended edible oils, besides meeting the standards laid down under the Prevention of Food Adulteration Act, 1954 it is mandatory for the producers of blended edible oils to comply with the requirements of AGMARK. The Act lays down the specifications for various agricultural commodities including some processed foods. In many cases the standards laid down under this Act differ from those laid down under the Prevention of Food Adulteration Act.

3. Laws being operated by Bureau of Indian Standards (BIS) (Ministry of Food & Consumer Affairs)

BIS is the largest body for formulating standards for various food items. These standards are also voluntary. But in some cases meeting the BIS standards have been made mandatory. For example, the Punjab Government, by an order promulgated under Section 3 of the Essential Commodities Act, 1955, has made it mandatory for the cattle feed manufactured and sold in the State of Punjab to meet the quality standards...
as laid down by the BIS. In many cases the standards laid down by BIS differ from those laid down under the Prevention of Food Adulteration Act.

4. The Essential Commodities Act, 1955

A number of quality control orders have been issued under Essential Commodities Act. Some of these orders are given below:-

a) Fruit Products Order, 1995 (Ministry of Food Processing Industries)

Fruit Products Order -1955, promulgated under Section 3 of the Essential Commodities Act - 1955, aims at regulating sanitary and hygienic conditions in manufacture of fruit, vegetable products. It is mandatory for all manufacturers of fruit, vegetable products to obtain a license under this Order. To ensure good quality products, manufactured under hygienic conditions, the Fruit Product Order lays down the minimum requirements for:

1. Sanitary and hygienic conditions of premises, surroundings and personnel.
2. Water to be used for processing.
3. Machinery and equipment.
4. Product standards.

Besides this, maximum limits of preservatives, additives and contaminants have also been specified for various products. Ministry of Food Processing Industries through the Directorate of Fruit & Vegetable Preservation at New Delhi implements this order. The Directorate has four regional offices located at Delhi, Mumbai, Calcutta and Chennai, as well as sub-offices at Lucknow and Guwahati. The officials of the Directorate undertake frequent inspections of the manufacturing units and draw random samples of products from the manufacturers and markets which are analyzed in the laboratories to test their conformity with the specified standards laid under FPO.

The Central Fruit Advisory Committee comprising of the officials of concerned Government Departments, Technical experts, representatives of Central food
Technology Research Institute, Bureau of Indian standards, Fruits and Vegetable Products and processing Industry, is responsible for recommending amendments in the Fruit Product Order. In view of the demands of the industry, and the liberalised economic scenario, major amendments were made in FPO during 1997\textsuperscript{10}.

b) **Meat Food Products Order, 1973 (Ministry of Food Processing Industries)**

Meat Food Products Order, 1973 (MFPO) promulgated under the provisions of Essential Commodities Act, 1955 provides for sanitary and other requirements, limits of heavy metals, preservatives, insecticides, residue, etc., for meat food products. Ministry of Rural Development in the Ministry of Rural Area & Employment was implementing this order. As per the recent amendment to the Allocation of Business, Ministry of Agriculture (Deptt. of Agriculture & Cooperation) would now be the Administrative Ministry for this Order.

c) **Milk & Milk Products Order, 1992 (Ministry of Agriculture)**

Milk and Milk Products Order, 1992 administered by the Department of Animal Husbandry & Dairying under Ministry of Agriculture was promulgated on 9th June, 1992 under the provisions of Section 3 of the Essential Commodities Act, 1955 with a view to maintain an increased supply of liquid milk of desired quality to the general public. This order regulates production, supply and distribution of milk and milk products throughout the country. The order also seeks to ensure the observance of sanitary requirements for dairies, machinery and premises, and quality control standards for milk and milk products.

d) The Vegetable Oil Products (Regulation) Order, 1998 (Ministry of Food and Consumer Affairs)

The Vegetable Oil Products (Regulation) Order, 1998, promulgated under Section 3 of the Essential Commodities Act, 1955 replaces the earlier orders i.e. the Vegetable Oil Products (Control) Order, 1947 and the Vegetable Oil Products (Standards of quality) Order, 1975. It aims to regulate the production and sale of vegetable oil products such as refined edible oils, vanaspati, bakery shortening, margarine, mixed fat spread and vegetable fat spread. It is mandatory for all producers of vegetable oil products to obtain registration under this order. To ensure good quality products, the order lays down standards of quality for the various vegetable oil products. It also lays down requirements to be complied with in regard to packing, marking and Labeling of the containers containing vegetable oil products. Some of the provisions of this order overlap with those laid down under the Prevention of Food Adulteration Act, 1954.

e) The Edible Oils Packaging (Regulation) Order, 1998 (Ministry of Food and Consumer Affairs)

This order was promulgated under Section 3 of the Essential Commodities Act, 1955, in the wake of dropsy incident, which claimed many human lives in Delhi due to consumption of adulterated mustard oil. It is mandatory for all packers of edible oils to get themselves registered under this Order. The Order prohibits the sale of edible oils, which do not conform to the standards of quality as provided in the Prevention of Food Adulteration Act, 1954 & rules made thereunder. It also prohibits the sale of edible oils in loose and requires to be compulsorily sold in packed form and also lays down the labeling requirements on the pack. It also lays down the sanitary and hygiene requirements for the premises besides providing for quality testing facilities. The implementation & administration of this order has been left to the respective State Governments.
f) The Solvent Extracted Oil, De-oiled Meal & Edible Flour (Control) Order, 1967 (Ministry of Food and Consumer Affairs)

The Solvent Extracted Oil, De-oiled Meal & Edible Flour (Control) Order, 1967 promulgated under Section 3 of the Essential Commodities Act, 1955, aims to regulate the production & sale of vegetable oils, de-oiled meal and edible flour produced through the solvent extraction process. It is mandatory for the manufacturers of these products to obtain a license under this Order. This Order also lays standards for edible oils and de-oiled meals besides laying down requirements for packing, marketing etc. In some cases the standards laid down under this Order differ from those laid down under the other Acts/Orders. The provisions relating to packing and marketing also overlap with those under the other Orders/Act.

In addition to the above Orders issued by the Central Government, respective State Governments have also issued a number of such Orders under Section 3 of the Essential Commodities Act, 1955.


Food Laws- International scenario

Unlike India, most of the western countries and some Asian countries including Malaysia, Thailand & Indonesia have one single code regulating the food sector. There is a single authority which lays down science based standards for articles of
food. In contrast to the Indian food laws, there is a more focus on ensuring Good Manufacturing Practices by the food sector than on detecting adulteration and prosecution. These regulations set out the requirements for the control of food safety hazards during production, manufacture and handling of food which includes its receipt, storage, processing, display, packaging, transportation, disposal and recall of food. Other requirements relate to skills and knowledge of food handlers and their supervisors, the health and hygiene of food handlers and the cleaning and maintenance of food premises and equipment. These regulations also lay down labeling requirements about the nutritional facts of the food article so that the consumers can make an informed choice. There is proper system in place for validation of health claims in a scientific manner. The Authority designated under those Regulations approves the exact wording of the health claims about food articles after proper scientific trials, which leaves no scope for misleading the consumers or for litigation about wrong claims.

The ultimate goal of these regulations is to ensure safe food supply and well-informed consumers in an industry friendly manner.

Harmonization of Indian Food Laws—recent efforts in this direction

In view of the importance of the food processing sector and India’s dream of becoming a global food factory, harmonization of multiple food laws has now been recognized as an urgent necessity. The need is being felt both in food processing sector as well as in Government circles for bringing about an appropriate Regulatory regime, which while recognizing the ground realities in the foods supply systems in India, are in general alignment with internationally accepted and respected regimes. During the past five years, India has been through dilemmas in relation to the reform process. India’s potential to garner a higher share in the increasing world food trade and the advent of Sanitary and Phytosanitary (SPA) Agreement under the World Trade Organization (WTO) have lead to increasing recognition and adoption of food safety measures. The capacity of India to penetrate world markets depends on its ability to meet increasingly stringent food safety standards imposed by developed countries. The
various Ministries have taken the following actions in this direction in the recent years:

1. The Ministry of Civil Supplies & Consumer Affairs brought out a paper for consideration of Committee of Secretaries (COS). The paper recommends that BIS should formulate standards for all food items in the country. This was felt as a major step towards harmonization of food laws.

2. The Task Force constituted by the Prime Minister under the chairmanship of Shri Nulsi Wadia submitted its report. The Task Force had advocated promotion of food safety and quality. The Task Force had made following suggestions:

   - Food Regulation Authority (FRA) be set up to formulate and update food standards for domestic and export market.

   - FRA should replace the PFA to conform to international standards. The Task Force has given ten specific recommendations such as provision of storage simplicitor, simplification of sampling procedure, simplification of procedure for nominee, time limit for prosecution, standard methods of analysis to be prescribed, penalty should be graded according to the gravity of offences and provision of adequate infrastructure and laboratories.

   - Harmonisation of Indian standard with quality norms of Codex and WTO.

   - FRA Governing Body should replace the Central Committee of Food Standard (CCFS) for expeditious decisions.

After lots of discussions and debates in the industrial circles as well as within the various ministries of the Government of India, a draft of the new Food Safety And Standards Act, was prepared. This much-awaited revolutionary piece of legislation received the approval of the Parliament on the 23rd August, 2006. The Food Safety And Standards Act, 2006 (No. 34 of 2006) aims to consolidate the laws relating to food and to establish The Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate
their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto. The distinctive features of the proposed bill are as under:-

1. Movement from multi-level and multi-departmental control to integrated line of command.

2. Single reference point for all matters relating to food safety and standards, regulations and enforcement.

3. Responsibility on food business operators to ensure that food imported, produced, processed or distributed is in compliance with the domestic laws.

4. Provision for civil penalties for minor offences and criminal action for serious violations.

Federation of Indian Chamber of Commerce and Industry (FICCI) has been relentlessly working with the member companies and the Government on this Act. This Act with its three-tier structure (an apex Food Safety and Standards Authority, a Central Advisory Committee under it and various Scientific panels and Committees) is expected to lay more emphasis on science based and participatory decisions and adopting contemporary approach in both standard setting and implementation\textsuperscript{11}.

Keeping in view the impact of FSSA on food processing industries in India, FICCI conducted this study to understand the food processing industry’s perception of the implications of FSSA.

Prominent benefits of implementation of the Act as anticipated by industry are:

- Unification of eight laws (80%)

• Hope for stronger implementation that will curb corruption (74%)
• Anticipation of science based standards (68%)

95% of the respondents appreciate the benefits of the Act and look forward to its implementation at the earliest\textsuperscript{12}.

Major problem that industry will face due to implementation of the Act are:

• Anxiety due to lack of information (83%)
• Massive penalties proposed under the Act (67%)
• Difficulty in meeting certain processed food standards when raw material violates standards (52%).

Industry anxiously awaits the rule framing exercise wherein Industry strongly feels that these concerns/ issues will be addressed.

Prominent problems identified for the government are:

- Inter-Ministerial/ Department resistance to give up portfolios (70%)
- Creation/ Rationalization of infrastructure (65%)
- Manpower constraints, both in terms of quality as well as quantity (60%)\textsuperscript{13}

Given the current state of PFA implementation, industry also feels that effective implementation of the Act will in itself be a challenge for the government. Industry has also identified some other aspects that need to be worked on for effective implementation of the Act like introducing and maintaining transparency, conducting awareness programs for industry and also regular training programs for regulators.

\textsuperscript{12} Id. at 3.
\textsuperscript{13} Id. at 4.
The first industry-wide study on the much awaited Food Safety and Standards Act was recently conducted by FICCI. Till date, industry has been deliberating on the Act rigorously but no compendium was available. The study not only collates the existing concerns but also reveals some startling information and can be used as reference information for any further activities on Food Safety and Standards Act\textsuperscript{14}.

The findings of the Study further generate curiosity to address other critical questions like:

- Impact of FSSA on tiny and small-scale food manufactures.
- Strategy for human resource development.
- Strategy to conduct awareness programs for industry.
- Consumer benefits introduced through FSSA\textsuperscript{15}.

Thus there are many issues and concerns, which still need to be addressed. It is yet to be seen whether the new law is successful in achieving its objectives. The real picture will emerge only after the rules are framed and the Act is actually implemented. Recently the Hon’ble Supreme Court has sought an explanation from the centre as to why it was sitting over the Food Safety and Standards Act passed by Parliament last year. A Bench of Justices A.K. Mathur and Dalveer Bhandari gave the Government time till September 5, 2007 to respond, failing which a directive could be issued by it. The Apex Court gave the above directions during the hearing of a PIL relating to the Safety aspects of foodstuff, particularly cold drinks, including Pepsi and Coca Cola, pending in the court since 2004. The Bench described it a serious matter, particularly when the Government itself had

\textsuperscript{14} Ibid
\textsuperscript{15} Ibid
brought the Bill before Parliament, which duly passed it, and the President considering its importance had given his assent in August last year itself\textsuperscript{16}.

Consequently, on 5\textsuperscript{th} September, 2007, the Central Government told the Supreme Court that it would bring into force the Food Safety and Standards Act by the end of the year\textsuperscript{17}. But, in spite of the commitment given by the Government to the Apex Court, there has been an inordinate delay in implementing the Food Safety and Standards Act.

**Problem Profile**

Article 21 of the constitution originally deals with right to life and personal liberty. The Supreme Court has widened its scope in *Maneka Gandhi v. Union of India*\textsuperscript{18}, it was held that right to live is not merely confined to physical existence but it includes within its ambit the right to live with human dignity. In *L.K. Koolwal v. State*\textsuperscript{19}, the court held that maintenance of health, preservation of sanitation and environment falls within the purviews of Article 21, as it adversely affects the life of the citizens and it amounts to slow poisoning and reducing the life of a citizen because of the hazard created, if not checked. Thus right to not only life but to healthy living is guaranteed by our Constitution.

The food we eat every day has a direct impact on our health. Considering that the health of a nation depends on the quality of food that the citizens get, food safety should get the highest priority. Yet, this has been a highly neglected area. As a result, today, from our morning cup of milk and tea to vegetables, edible oil, wheat and spices, every item of food on our daily menu is suspect. Milk is supposed to be a nutritious food, but it could contain anything from detergent to refined oil, caustic soda or urea or it may have traces of pesticides, heavy metals, preservatives or even hormones fed to the cattle. The edible oil scenario is no

\textsuperscript{16} *The Tribune*, Chandigarh, dated 19\textsuperscript{th} August 2007 at 21.
\textsuperscript{17} *Business Standard*, Kolkata, dated 6\textsuperscript{th} September 2007 at 14.
\textsuperscript{18} AIR 1978 S.C. 597
\textsuperscript{19} AIR 1988 Raj. 2
better. Despite the Prevention of Food Adulteration Act, in 1998 we witnessed one of the most well-organized and large-scale adulterations of mustard oil in the country, resulting in hundreds of consumers in Delhi suffering from epidemic dropsy. More recently, Bangalore witnessed another oil-related health problem - a large number of people who consumed a particular brand of fried ‘chakli’ - a salted delicacy, took seriously ill, highlighting the absence of quality control measures over such fried and packed foods sold in the market. Look at ‘dals’ sold in the market. The arhar dal that we buy could well be coloured with a toxic dye to camouflage poor quality. So also spices, particularly the ground variety. That’s not all. The sweetmeats that we buy may well contain prohibited colours, so also vegetables. Even watermelons have been found injected with a red dye.

In *Precious Oil Corporation and Ors. v. State of Assam*\(^{20}\), it was held that adulteration of food is a menace to public health. The Prevention of Food Adulteration Act has been enacted with the aim of eradicating that anti-social evil and for ensuring purity in the articles of food.

In *Andhra Pradesh Grain and Seed Merchants Association etc. v. Union of India (UOI) ana Anr.*\(^{21}\), it was held that, “Adulteration and misbranding of foodstuffs is a rampant evil and a statute calculated to control that evil is indisputably in the interest of the general public: The statute imposing restrictions upon traders will not be deemed unreasonable merely because it makes a departure from the normal structure of statutes enunciating offences and prescribing punishments.”

In *State of Rajasthan v. Jagdish Prasad*\(^{22}\), it was held that the provisions of Act of 1954 and Rules framed thereunder have been framed in order to safeguard


\(^{21}\) AIR 1971 SC 2346

\(^{22}\) 2009 CrLJ 4298
interests of consumers of food articles. Therefore strict adherence to provisions thereof is sine-qua-non.

Besides adulteration, contamination of food with pesticide residues, heavy metals, mycotoxins, etc, pose an equally major health risk. Studies conducted by the Central Food Technological Research Institute, Mysore, some years ago had shown the presence of heavy metals like lead, chromium, arsenic and mercury in green vegetables grown in and around Mysore, Karnataka, thanks to untreated effluents released by industries in the area. Punjab Agricultural University, Ludhiana, had also reported similar contamination of vegetables including potatoes, mustard, mint, cauliflower, peas and ‘methi’ with heavy metals like mercury, lead, arsenic, chromium and nickel.

The Indian Council of Medical Research, in its report published in 1993 on ‘Surveillance of food contaminants in India’, had revealed widespread occurrence of pesticide residues in bovine milk samples collected from 12 states. Infant food too had shown not only presence of pesticide residues but also heavy metals like arsenic, cadmium and lead. Similarly, 21 per cent of groundnut samples and 26 per cent of maize samples tested had aflatoxin contamination exceeding the maximum permissible limit prescribed under the Prevention of Food Adulteration Act. Mycotoxins are produced by various species of fungi that invade food during pre and post harvest stages in weather conditions conducive to fungal growth. They are known to be hepatotoxic, nephrotoxic, carcinogenic or mutagenic, depending on the variety.23

Subsequent studies conducted by ICMR have shown high mycotoxin contamination in rice, wheat, maize, bajra and groundnut, that were not properly stored or damaged in the rain. The National Institute of Nutrition’s investigations into many outbreaks of food-borne diseases in different parts of the country have

also shown the cause and effect relationship between ingestion of mycotoxins and acute disease outbreak.

In addition to these, we also need to deal with newer issues on food safety vis-à-vis genetically modified foods. The ongoing process of globalization and the rapid advances in the area of genetic engineering pose a new challenge to food safety and require comprehensive measures to protect consumer interest.

Consumers International, a coalition of consumer organizations the world over, which had in the year 2000 focused on consumer concerns over the safety of genetically modified foods, is now taking up this issue even more strongly.24

The standards of food items laid down under the Prevention of Food Adulteration Act, 1954, are not science based in many cases and substantially vary from those of the developed countries and the standards laid down by the Codex Alimentarius Commission (Food and Agriculture Organization of the United Nations). For example, Food Regulation of U.K. has fixed a standard of erucic acid in oil and fat as not more than 5%.25 Whereas there is no such standard laid down under the Indian Food Laws. As a result Indian Mustard Oil, which contains more than 50% erucic acid, is freely allowed to be sold and consumed in India whereas it cannot be sold for edible purposes in most of the developed countries because of high levels of erucic acid, considered harmful for human health.

France, Belgium & Chile lay down a maximum limit of 2% of Alpha Linolenic Acid in the oils & fats to be used for frying as heating of oils & fats with higher levels of Alpha Linolenic Acid is considered as carcinogenic, whereas there are no such standards for oils & fats to be used for frying in India.26 As a result oils containing much more than 2% Alpha Linolenic Acid such as Soya bean Oil & Mustard Oil are freely used for frying posing great health risk to the consumers. There are no standards laying down discard limits for fried o in India. Whereas

24 Ibid
in most of the developed countries standards have been laid down prescribing discard limits for fried oils as repeated heating of vegetable oils beyond certain point is considered harmful for human health\(^{27}\). Until a few years back, there were no standards laid down under the Act for maximum levels of residual pesticides. Efforts in this regard started only after the much-publicized Cola controversy wherein some popular soft drinks were found to have very high levels of residual pesticides than those prescribed by some of the developed countries. One of the excuse taken by the manufacturers of these soft drinks was that there were no standards laid down under the Indian food laws as to residual pesticides in the soft drink. After this incident the government has laid down standards for maximum levels of different kinds of pesticides in a number of food articles and the process in still going on. However there are no appropriate analytical facilities throughout India to accurately test the levels of residual pesticides in the food articles.

The standards laid down under the Prevention of Food Adulteration Act are not only obsolete and are away from the international standards, even the procedure for revision of these standards is also cumbersome and lengthy. The issues relating to revision of obsolete standards shuttle between the various subcommittees of the Central Committee for Food Standards (CCFS) and the CCFS for many years before any final decision.

Besides obsolete standards for many food items and inordinate delays in the revision of the standards due to burocratic controls, the labeling regulations laid down under the Act are also far away from those of the developed countries and fail to protect the interest of the consumers. In all the developed countries, it is mandatory to label all products as to nutritional facts relating to calories, protein content, carbohydrate content, fat content etc. But there were no such labeling requirements in India. However very recently the Ministry of Health, Government of India had issued a notification no. GSR 664(E) dated 19-09-2008 making it

mandatory for all food articles to be labeled as to nutritional facts as calories, carbohydrate content, protein content, fat content with effect from 18th June, 2009.

As soon as deleterious effect of trans-fats present in the hydrogenated fats (vanaspati) were highlighted by the scientific community, the U.S.A. introduced draft labeling rules in January, 2003 making it mandatory for labeling food products from January, 2006 as to the trans-fat content and also for mentioning a warning on the labels suggesting that consumption of trans-fats should be as low as possible. But until recent past there were no such labeling requirements in India inspite of directions by WHO to all countries and India continues to be one of the largest consumers of hydrogenated fats (vanaspati) which is now well known to raise bad cholesterol and reduce good cholesterol and is considered worse than even the saturated fat.

In view of controversies over the harmful effect on health of the Genetically Modified foods, which is a recent concept, countries of the European Union made it mandatory to label Genetically Modified food products as Genetically Modified so that the consumers could make an informed choice, but unfortunately there are no such labeling requirements in India till date. Many of the labeling regulations under the Prevention of Food Adulteration Act are so vague that these give rise to controversies and thereby litigations. For example under rule 37-D of the Food Adulteration Rules, the edible oil producers are debarred to make any claim, which amounts to an exaggeration. There being no system of validation of claims, such a labeling regulation is giving rise to controversies as to the interpretation of the word “exaggeration” and thereby leading to litigation.

The Act fails to ensure that good manufacturing practices are followed by the food sector. It mainly focuses on detection of adulteration, contamination and prosecution. On the other hand, food regulations of the developed countries mainly focus on ensuring Good Manufacturing practices in the food-processing

sector so that the possibilities of any contamination or adulteration in the final product are eliminated altogether. For example, food regulations of all developed countries have banned the use of thermic fluid which is a mineral oil for indirect heating in the food processing sector so that there are no possibilities of contamination of mineral oil into the food articles due to mechanical failures. These regulations allow only high-pressure steam to be used for this purpose. Whereas there is no such bar under the Indian food regulations, thereby posing a great health risk to the consumers due to possibilities of contamination of mineral oil in the food articles. The dropsy incident in Delhi, which claimed many precious human lives, was the result of contamination of mineral oil in the vegetable oil.

The penalty and prosecution provisions laid down under the Act are not only stringent one but time consuming also. The dropsy incident, which claimed many lives in Delhi, took place in the year 1998, but till date not even a single conviction has taken place in this case. More than 75,000 prosecution cases under this Act are pending in various courts of India for the last many years.

Thus the present food laws in the country fail to ensure wholesome & safe food to the people of this country and thus fail to guarantee right to life as enshrined in Article 21 of the Indian Constitution. The outdated food regulation in India are also standing in the way of exploiting the full potential of food processing sector in India and making India a food factory of the world. The capacity of India to penetrate world markets depends upon its ability to meet increasingly stringent food safety standards imposed by the developed countries and aligning its food regulations with the internationally accepted and respected regimes. However the current food laws in India are far away from the best in the world.

**Research Hypothesis**

Existing food laws in India fail to ensure safe food to the consumers. In order to ensure safe food to the consumers and to make India “Food Factory of the
World", the redundant and obsolete food laws need replacement by new legislation keeping in view the globalisation, liberalisation and privatisation.

**Universe of Study**

In the present research work, in order to find out the causes of failure of the existing food laws in ensuring safe food for consumption, a critical analysis of the various provisions of the relevant enactments will be carried out. The provisions of the food regulations of some of the developed countries such as U.S.A., Australia, U.K., E.U., Malaysia, Japan and Thailand will be taken into account for comparison purposes. Standards laid down by the Codex Alimentarius Commission, the Food and Agriculture Organization of the United Nations will also be considered.

**Research Methodology**

Mainly it is a doctrine study. A comparative analysis of the provisions laid down under Indian Regulations and those of the internationally accepted and respected regimes will be carried out in respect of the following:

1. Mechanism of Evolving and Fixing Food Standards
2. Packaging Regulations
3. Labeling Requirements
4. Import Regulations
5. Export Regulations

**Object of Study**

Though, today there are a number of legislative enactments to ensure availability of safe and wholesome food for human consumption but all these enactments fail in their objective of providing safe food to the people. In this study, we would examine as to what extent these multiple food regulations have been successful in
ensuring safe food to the people? Why these legislative enactments could not achieve their respective goals? Whether there are loopholes in these Acts or there is a lack of will power of the administrative authority for their proper implementation? What corrective actions are required? For the achievement of this object the provisions of foods laws applicable in India and those of some of the developed countries will be analyzed to find out the shortcomings in the Indian Food Laws and come out with necessary recommendations to make Indian Food Laws really effective in achieving its goals.

The object of the present study is to find out loopholes in the existing food laws in India and trace out the reasons for the failure of the present laws in achieving the desired goals. Measures will be suggested for aligning the Indian food laws with the globally accepted and respected regimes so that Indian food laws too could effectively ensure availability of safe and wholesome food for human consumption and Indian food articles are able to meet stringent food safety standards imposed by developed countries which is must for penetrating into the world markets and thereby making India the food factory of the world.