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# Food safety laws in states

The UP government has issued directives requiring all eateries to display the names and addresses of their owners and employees. In July, SC stayed similar orders passed in UP and Uttarakhand. What are the requirements for selling food in India? What powers do states have to make laws in this regard?

Written by [Ajoy Sinha Karpuram](#)

Updated: October 3, 2024 04:45 IST



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Food stalls in Muzaffarnagar in July, after the police order to owners. Image: Gajendra Yadav

The Uttar Pradesh government last week made it mandatory for food establishments to “prominently” display to customers the names of “the operator, proprietor, manager, and other relevant personnel”. A day later, Himachal Pradesh minister Vikramaditya Singh said that in his state too, “every eatery and fast food cart will have to display the owner’s ID”.

The Himachal government disowned the statement and, at a meeting in Delhi with Congress president [Mallikarjun Kharge](#), Singh reportedly affirmed his commitment to the party’s “core principles”.

On July 22, the Supreme Court stayed similar orders passed by police in UP and Uttarakhand for this year’s kanwar yatra. The court said that the “competent authority” under the Food Safety and Standards Act, 2006 (FSSA) could indeed issue such orders, but police could not “usurp” this power.

So what information are food establishments required to display under the FSSA? Can the government of a state ask for additional information to be displayed, and are there any penalties for not doing so?

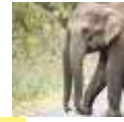
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## What are the regulations for selling food in India?

Anyone who intends to operate a food business is required to either register or license their business from the Food Safety and Standards Authority of India (FSSAI), a body established under the FSSA to monitor and create regulations for how food should be processed, distributed, sold, and imported to ensure “safe and wholesome” food.

Under the Food Safety and Standards (Licensing and Registration of Food Businesses) Rules, 2011 (enacted under the FSSA), “Petty Food Manufacturers” such as small-scale food businesses, hawkers, vendors, and stall holders, are required to register with the FSSAI.

If the registration is approved, the Petty Food Manufacturer receives a registration certificate and a photo identity card “which shall be displayed at a prominent place at all times within the premises or vehicle or cart”.

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Under the same Rules, operators of relatively large businesses have to obtain a licence from the food authority. The licence, too, must be “displayed at a prominent place at all times within the premises where the Food Business Operator carries on the food business”.

In both situations, therefore, the owner's identity and the establishment's location are already required to be displayed (through the photo ID and the licence issued by FSSAI).

Under Section 63 of the FSSA, any operator carrying on a food business with a licence can be punished with up to six months in prison and a fine of up to 1 lakh.

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### Do states have the power to make rules under the FSSA?

Section 94(1) of the FSSA states: "Subject to the powers of the Central Government and the Food Authority to make rules and regulations respectively, the State Government may, after previous publication and with the previous approval of the Food Authority... make rules to carry out the functions and duties assigned to the State Government and the State Commissioner of Food Safety under this Act and the rules and regulations made thereunder".

Matters on which state governments can make rules are detailed in Section 94(2). Under Section 94(2)(a), states can make rules on matters that come under "other functions of the Commissioner of Food Safety under clause (f) of sub-section (2) of section 30".

The Commissioner of Food Safety is appointed by the state government under Section 30 to ensure "efficient implementation" of the FSSA and its accompanying rules and regulations. Sections 30(2)(a) to (e) cover specific functions of the Commissioner of Food Safety (carrying out surveys, training programmes, and approving prosecution for offences, etc.); Section 30(2)(f) gives the Commissioner a broad mandate — "such other functions as the State Government may, in consultation with the Food Authority, prescribe".

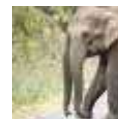
In addition, Section 94(2)(c) allows the state government to make rules for "any other matter which is required to be, or may be prescribed or in respect of which provision is to be made by rules by the State Government".

Section 94(3) requires that the rule must be placed before the state legislature for approval "as soon as may be".



The UP government statement issued on September 24 said “necessary amendments should be made to the Food Safety and Standards Act to ensure compliance”.

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## What can happen if any provisions, rules, and regulations under the FSSA are violated?

If a Food Business Operator fails to comply with any provision of the FSSA or its accompanying regulations, the food authority can serve an ‘Improvement Notice’ upon them under Section 31 of the Act. The notice will include the grounds for believing that the food business has failed to comply with the FSSA, the measures it must take, and the time period for compliance (minimum 14 days).

A business that fails to comply with this notice may have their licence suspended or, in case of further non-compliance, even cancelled.

The UP directives do not specify the penalty for non-compliance. Section 58 deals with “Penalty for contraventions for which no specific penalty is provided” — “which may extend to two lakh rupees”. A food business operator who is convicted twice for the same offence (including one under Section 58), may be required to pay double the penalty for the first conviction, with a further fine “on daily basis” which can extend up to Rs 1 lakh, and also lose their licence (Section 64).

## Can a state government’s directives under FSSA be challenged in court?

One of the grounds on which the earlier UP and Uttarakhand police directives were challenged was that the orders effectively forced individuals to reveal their religious and caste identities.

During the hearing in the SC on July 22, the petitioners argued that the orders discriminated against individuals on the grounds of religion, violating Article 15(1) of the Constitution, which states “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”

The petitioners also argued that the order “created conditions for the complete economic boycott of Muslim minorities”, which they said violates the right to practise any profession under Article 19(1)(g), and supports the practice of

untouchability, which was abolished and forbidden under Article 17 of the Constitution.

Last week, the [Uttar Pradesh](#) government said that its latest directives — which include the installation of CCTV cameras at food establishments and a “state verification campaign” — are aimed at securing public health.

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“...Incidents of adulterating food items like juice, dal, and roti with human waste, inedible, or dirty substances have been reported from various parts of the country,” the UP government said, and added that “to prevent such occurrences in Uttar Pradesh, concrete measures must be put in place to ensure food safety and protect the health of the common man.”

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First uploaded on: 03-10-2024 at 04:44 IST

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