

It is recommended that the UT Government must ensure availability of clear site, required approvals and funds before award of work to avoid unwarranted delays in completion of the project as per revised DPR. Responsibility may also be fixed on officials who permitted procurement of materials when the site availability was uncertain.

2.3 Implementation of Food Safety and Standards Act, 2006

DEPARTMENT OF FOOD SAFETY

2.3.1 Introduction

Government of India enacted Food Safety and Standards Act, 2006 (Act) which lays down scientific standards for food, its production, storage, distribution and sale, to ensure safe and wholesome food for human consumption. As required under Section 4 of the Act, the Central Government established (September 2008), the Food Safety and Standards Authority of India (FSSAI) for exercising the powers conferred on and to perform the functions assigned to it under the Act. Food Safety and Standards Rules, 2011 (Rules) was framed as per provisions of the Act.

The Union Territory of Puducherry established (February 2011) Department of Food Safety (DFS) and Department of Food and Drug Testing (DFDT) for implementation of the Act. The Secretary to the Government (Health & Family Welfare (H&FW)) is the Commissioner of Food Safety (Commissioner) and nodal officer for implementation of the Act in the UT of Puducherry. The DFS is headed by Deputy Commissioner of Food Safety, who is assisted by Designated Officer (DO) and Food Safety Officers (FSOs) for administrative purposes. DO is empowered to issue licences and FSOs are responsible to issue registration certificates and inspections of premises of Food Business Operators (FBOs) for drawing food samples. The DFDT is headed by the Senior Public Analyst for testing and analysing the food samples as required under the Act.

For assessing the efficacy of the vigilance and enforcement mechanism, an audit of implementation of the Food Safety and Standards Act, 2006 covering the period 2016-17 to 2018-19 was conducted from April 2019 to August 2019 to derive an assurance that:

- i. Adequate human resources and infrastructure were in place for efficient implementation of the Act;
- ii. Regularity mechanism/processes in grant/renewal of licence to FBOs were in accordance with the provisions of the Act; and
- iii. Effective process for enforcement and monitoring were in place.

As this was the first audit after formation of Department of Food Safety, specifically for implementation of the Act, all the districts were covered. A joint inspection and survey of FBO units were also conducted. Scrutiny encompassed the records in the office of the Secretary to the Government (H&FW), DFS and DFDT of UT of Puducherry.

The entry conference with the Secretary to UT Government of Puducherry, Department of Health and Family Welfare was held on 19 July 2019 and the exit conference was held on 30 June 2020. Audit acknowledges the co-operation extended by the Department in providing documents / files and dump data available with them for the period up to 31 March 2019.

As per the data available in the online portal on FSSAI viz., Food Licensing and Registration System (FLRS), 2,482 and 5,999 Licences and Registrations respectively, were issued for the period from January 2014 to March 2019.

2.3.2 Audit findings

2.3.2.1 Adequacy in Human Resources and Infrastructure

(i) Human Resources

As per Section 29 of the Act, State Food Safety Authorities as specified in Sections 30(1), 36(1) and 37(1) viz., Commissioner of Food Safety, DO and FSOs respectively, shall be responsible for the enforcement of the provisions of the Act at UT level. It empowers these authorities to monitor and verify that the relevant requirements are fulfilled by FBOs, maintain a system of control, public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business.

(a) Absence of dedicated District Level Functionary

Though the Rules mandated appointment of full time DO in each district within five years, Audit observed that only one DO was entrusted with the charge of all four districts. Three posts of DOs were vacant.

(b) Shortage of officers for Regulatory Authority

Apart from registration of food business, FSOs are empowered to draw food samples and to send them for analysis. As per norms laid down in the Central Advisory Committee (CAC), it was recommended that the UT should have one FSO for every 1,000 FBOs. It was noticed that there were 8,481 registered/licensed FBOs in UT and thus there was a requirement of nine FSOs. The position of normative requirement, sanctioned strength and men -in-position of DOs and FSOs was as given in **Table 2.1**:

Table 2.1: Position of requirement and availability of DOs and FSOs

Area	Post	Norms	Sanctioned Strength	Men-in-Position
UT of Puducherry	DOs	One DO for each district	4	1
	FSOs	One FSO for every 1,000 FBOs	7	1

Scrutiny of records revealed that against the sanctioned strength of seven, only one FSO is in position and the remaining posts were lying vacant. Similarly, as against the sanctioned post of four DOs, only one person was in position.

The UT Government may authorise any officer having the required qualifications of FSO to perform the functions of FSO, within a specified jurisdiction as per Section 37(2) of the Act. Further, FSSAI clarified (July 2011) that the services of the Food Inspector serving in Municipal Corporations could be utilised as FSO, provided the officer fulfils the required qualifications. However, the Department had not initiated any proposal to fill up the existing vacancies with any officer having the required qualifications in other departments or local bodies. Not filling up of the vacancies since enactment of the Act, was indicative of lack of prioritisation of the Government on the aspect of food safety, as it led to deficient inspections and sampling compromising the enforcement of the Act.

The Commissioner of Food Safety stated that the proposal for filling up the vacancies would be submitted to Government of Puducherry for approval.

(c) Training for Departmental officers and FBOs

Section 30(2)(c) of the Act stipulates that the Commissioner is to conduct training programme for the personnel of the DFS, for different segments of food chain for generating awareness on food safety. Further, CAC, in January 2010 intimated that the UT should undertake capacity building and training programmes not only for the employees of the Department, but also to food manufacturers, handlers, FBOs, etc.

It was observed that only the mandatory induction training was conducted for the DO and FSOs.

To create awareness on food safety among manufacturers, packers, wholesalers, distributors and sellers, a training programme was to be organised by DFS. However, no such training was conducted in this regard.

In October 2017, FSSAI designed a large scale Food Safety Training and Certification Programme for food business across the value chain to steer and manage by UT with an action plan to mobilise food businesses and other training partners to undertake the training. The UT was required to designate a Senior Officer as a Nodal Officer for the programme to implement the programme. However, it was noticed that though the training programme was designed but no training was conducted by the Department.

Thus, the training programme to sensitise the FBOs on the standards and specification to be followed in the food manufactured, stored, sold etc., for consumption as envisaged in the Act was not achieved.

(ii) Infrastructure for food testing

Food testing is an integral part of food safety regulation and enforcement. Accordingly, laboratories are an inseparable part of the food safety system. FSSAI notifies laboratories accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL), which undertakes the assessment and accreditation of laboratories in accordance with the international standards. An NABL accreditation is a benchmark of quality of tests carried out by a laboratory.

As per Section 43 of the Act, the FSSAI may notify food laboratories and research institutions accredited by NABL or any other accredited agency for the purposes of carrying out analysis of samples by the Food Analysts under this Act.

In August 2011, it was clarified by FSSAI that the existing Public Food Laboratories in UTs which were testing food samples under previous Prevention of Food Adulteration (PFA) Act, 1954 would continue to perform their function of food testing under Section 98 of Act, as those laboratories would not be able to get accreditation before the Act came into force. The analysis done in the laboratory with reference to food is for chemical and microbiological parameters.

(a) Lack of requisite infrastructure facilities for food testing

In UT of Puducherry, Public Laboratory (renamed as Department of Food and Drug Testing) was functioning as food analysing laboratory under PFA Act, 1954 which had not been accredited by NABL.

Though FSSAI permitted the State Laboratory to function as food testing laboratory under Act, the need for accreditation of State Food Laboratories by NABL and notification of these food laboratories by them was a statutory requirement under the Act. To get accreditation, the laboratory had to be upgraded in terms of structural infrastructure to house sophisticated instruments, calibration work for measuring and analytical equipment has to be carried out by an accredited calibration laboratory specialised for this purpose. The laboratory has not obtained accreditation from NABL.

The department in its reply stated that in view of lack of requisite infrastructure in the existing laboratory, the DFDT had not initiated any action to obtain NABL accreditation till date. It further stated that the FSSAI has provided funds and works will be initiated shortly.

2.3.2.2 Regularity mechanism in grant/renewal of licence to FBOs

(i) Deficiencies in regularity mechanism

As per Section 31 (1) of the Act, licences are mandatory for FBOs having annual turnover of more than ₹ 12 lakh. Further, as per Regulation 1.2.1 (4) of

Food Safety and Standards (Licensing and Registration of Food Business), 2011 (FSS Regulations, 2011), all petty¹² FBOs or FBOs with annual turnover up to ₹ 12 lakh and/or production capacity of food not exceeding 100 Kgs/litre per day or procurement, handling and collection of milk up to 500 litre per day, are required to register with the DFS. The DO is empowered to issue licences and the FSOs are authorised to issue registration certificates, to draw food samples and to send it for analysis in Food Testing Laboratories to see whether the food articles conform to the standards set. The licences and registration certificates are issued to the FBOs, through the FLRS online portal from January 2014. Audit noticed the following deficiencies in the processes of issue of licenses and registration:

(a) Absence of survey for identification of FBOs operating without licence/registration

The Act and the Rules¹³ mandated the UT Government of Puducherry to conduct a survey and prepare a data base of FBOs indicating their nature/category. Under the Act, operation of food business without a licence was punishable with imprisonment and fine extendable up to ₹ five lakh.

It was observed that DFS issued Licence/Registration certificates through FLRS to those FBOs who applied for Licence/Registration to run their business. The Commissioner of Food Safety, however, did not conduct any such survey and as a result, reliable information on the FBOs operating in the State was not available. Consequently, the unlicensed/ unregistered FBOs were not identifiable and many FBOs in the State remained unmonitored outside the ambit of the Act.

Further, audit noticed that the data available in the online portal (FLRS) was not updated on a regular basis and included expired Licences/Registrations, renewed licences with new licence number.

To ascertain whether the FBOs were functioning with valid licences, a joint survey was conducted by Audit in FBOs such as restaurants, canteens, manufacturers, wholesalers, distributors etc., in main market areas of Puducherry by manual selection at random. This exercise revealed that 97 out of 212 FBOs¹⁴ were functioning without Licence/ Registration. Non-adherence to the provisions in relation to survey, enrolment of FBO operators for licensing and registration as mandated in the Act was also noticed. The risk of supply and consumption of substandard quality of food which could lead to deleterious consequences on public health would be high if a mechanism to enforce monitoring was not put in place on priority.

¹² 1. Manufacturer or seller of any article of food; 2. Petty retailer; 3. Hawker; 4. Itinerant vendor; 5. Temporary stall holders; 6. Distributors of food for any social or religious gatherings (except a caterer) and 7. Any small scale/cottage/other tiny food industries whose capacity and annual turnover qualify for registration.

¹³ Section 30(2) (b) of the Act read with Rule 2.1.3 of the Food Safety and Standard Rules, 2011.

¹⁴ 212 units in main market areas were covered. (Puducherry - 157, Karaikal - 20, Mahe - 16 and Yanam - 19).

(b) *Non-coverage of FBOs under the Act*

FSSAI launched (July 2018) 'The Eat Right Movement' with three initiatives viz., Safe and Nutritious Food, Eat healthy campaign and Food fortification at home, school, workplace, hospital, places of worship, restaurants and clean street food. In this regard, FSSAI required (June-October 2018) that various FBOs, viz., departmental canteens, food providers under e-commerce, Mid-day Meal Scheme, Anganwadis should be brought under Registration/Licence for ensuring the safety and hygiene of the food served by them.

It was noticed that the DFS had not taken up this issue with other departments concerned, for registering the FBOs functioning under those departments to ensure compliance of the provisions of the Act.

Further, FSSAI initiated (January 2018) a project called BHOG (Blissful Hygienic Offering to God) to encourage all places of worship to adopt and maintain food safety and hygiene in the preparation and serving of *Prasad*. Accordingly, all places of worship that distribute *Prasad*, including vendors who sell *Prasad* in the vicinity of the place of worship are required to obtain FSSAI Licence/Registration and they also need to follow sanitary and hygiene practices as per the Act.

In UT of Puducherry, there were 240 temples wherein *Prasad* was prepared, sold and distributed. The DFS had not taken any action under BHOG to bring them under the Act. Hence, the standards to be followed for the sanitary and hygiene practices as per FSS regulations for the foods supplied by the temples could not be ensured.

When pointed out, the DFS accepted and stated that there was no separate manpower notified as Nodal Officers for the programme and the FSOs were instructed to issue licences in these cases also. However, the fact remains that despite being taken up as a separate project to ensure hygienic offering of *Prasad* given in temples, the standard of sanitary and hygienic practices could not be ensured.

(c) *Lack of synergy between the food safety authorities and local urban bodies/other departments*

As per Section 355 of 'The Pondicherry Municipalities Act, 1973', Municipalities are empowered to issue Trade Licence for manufacturing, selling, storing of any article/commodity etc., within its area of jurisdiction. The FBOs were required to obtain Trade Licence from the Municipalities concerned according to their place of business.

In respect of FBOs, such trade licences could have been linked to the food licences/registration. However, there was no such mechanism in the local bodies to ensure every FBO applying for trade licence, obtained food licence/registration as a pre-requisite. Audit carried out a test check of 686 trade licences issued by Puducherry Municipality during 2017-18, which revealed

that 197 FBOs did not obtain Licence/Registration under Act even though they possessed trade licences.

Similarly, as per Section 22 (1) of Central Goods and Services Tax Act, 2017 (CGST Act), every supplier, whose aggregate turnover in a financial year exceeds ₹ 20 lakh shall be liable to be registered under the CGST Act in the Union Territory, with Department of Commercial Taxes.

To ascertain whether the FBOs who fulfilled the above criteria had obtained mandatory licences under Act, Audit checked 116 (out of 1,041) commercial tax returns filed by FBOs, with the licences issued by DFS. It was found that 26 out of 116 cases, did not obtain the mandatory licence under Act.

It is recommended that a suitable mechanism must be put in place to collate the details of registration of FBOs from other departments with the data available with the DFS.

2.3.2.3 Enforcement, Sample Testing and Monitoring

(i) Enforcement Mechanism

Food Safety Officers (FSOs) are responsible for drawing samples of food from the premises of FBOs. These samples are then sent to the Food Testing Laboratories (FTLs) for testing. The DO, after scrutiny of the report from FTL, shall decide as to whether the contravention is punishable with imprisonment or fine only. In case contravention is punishable with imprisonment, he shall send his recommendations within 14 days, to the Commissioner of Food Safety for sanctioning prosecution. If punishable by fine, he will authorise FSO to file an application for adjudication of the offence with the Adjudicating Officer (AO). The decisions of the AO can be challenged at the Appellate Tribunal notified by the State Government. In case, the offence is punishable with imprisonment, the Commissioner of Food Safety will decide to refer the case to an ordinary court of jurisdiction or a special court¹⁵.

Audit observed that the effectiveness of the enforcement mechanism was compromised by significant shortfall in inspection, drawal and testing of food samples as detailed in the succeeding paragraphs:

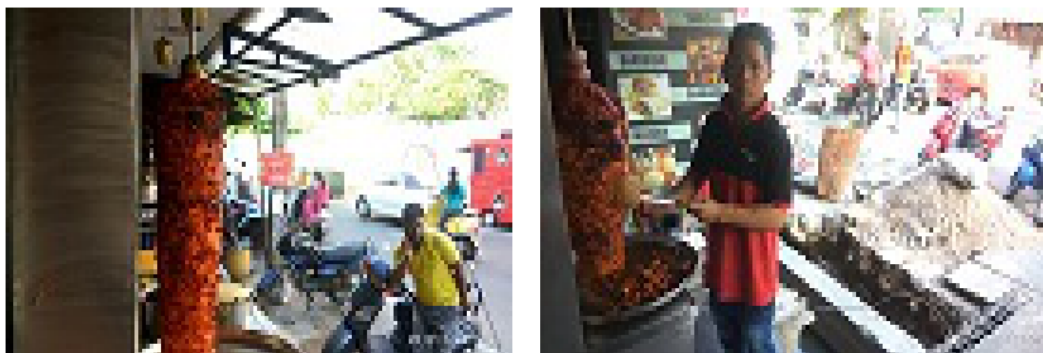
(a) Non-adherence to general hygienic and sanitary practices by FBOs

The FSS Regulations, 2011, 2.1.2 read with Schedule 4 stipulates that establishment in which food is being handled, processed, manufactured, stored and distributed by the FBOs should conform to sanitary and hygienic requirement. Further, raw meat/poultry should be stored separately from other foods.

¹⁵ A court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years or to a special court (if such court is established), if punishable with imprisonment for a term more than three years.

Audit conducted a joint inspection of 89 FBOs to assess the conformity of the above standards in the food business. Out of 89 units, 40 units (45 *per cent*) were operating in unhygienic conditions and were not as per the standards specified in the regulations.

The FBOs where good hygienic practices were not followed are shown in **Pictures 2 and 3**.



Pictures 2 and 3 : High risk food on road side and near drainage in Puducherry

It was also found that the foods classified under high risk¹⁶ categories were being cooked and displayed in open outside the restaurants/hotels on the road side without any safety norms as shown in **Pictures 2 and 3**.

Besides, the general hygienic and sanitary practices noticed in the storage of food items was unhygienic and unfit as shown in **Pictures 4 and 5**.



Pictures 4 and 5 : Unhygienic Storage in Restaurants

It could be seen from the above that nearly 45 *per cent* of the test checked FBOs did not follow the hygiene norms and sanitary practices in preparation, handling, storing and distribution of food. The food outlets were functioning near the drainage. The food was cooked in an open unhygienic area in these outlets and the stored food was found to be infested with worms. The consumers were exposed to risk of food poisoning and other gastro intestinal problems.

¹⁶ High risk foods are ready to eat under unfavourable conditions support multiplication of harmful bacteria which causes food poisoning.

(b) Shortfall in inspection of Food Business Operators

Rule 2.1.1(6) of the Food Safety and Standards (Licensing & Registration of Food Business) Regulations, 2011 mandates at least one inspection of each registered establishment every year. Again, Rule 2.1.3 (4) (iii) of the Food Safety and Standards Rules, 2011 requires the designated Food Safety Officer to conduct inspections as frequently as may be prescribed by the DO.

However, neither the UT Government of Puducherry nor the DOs prescribed any frequency of inspections. Available data indicated that FSOs did not inspect FBOs even once in a year.

Audit scrutiny revealed that only 525 out of 8,481 FBOs (six *per cent*) were inspected by FSOs. Thus, the shortfall in conduct of the inspection indicated that food safety, general hygienic and sanitary practices in FBOs was not monitored as required under the regulations.

(c) Inspection of central licence FBOs

As per orders issued by FSSAI (June 2014), entire authority of enforcement of the Act for Central Licence Units¹⁷ rest with the UT Government. From the details available in FLRS, it was seen that there were 58 central licensed units functioning in UT of Puducherry. It was noticed that the Department had not inspected those units during the audit period.

On being pointed out about the shortfall in inspection, the Department stated that it would require more manpower and funds from GoI as the UT of Puducherry has not been able to provide funds.

(d) Absence of system of inspection even while issuing /renewing licences / registrations

It was seen that inspections were conducted rarely even at the time of issue of licence/ registration. As seen in preceding paragraphs, only six *per cent* of FBOs were inspected during the period 2015-16 to 2018-19, which indicates absence of system of inspection even while issuing/renewing licences/registrations.

(ii) Sample Testing

(a) Shortfall in testing samples

As per Section 38(1) (a) of the Act, FSOs may take a sample of any food or any substance intended for sale, for human consumption, required as evidence in proceedings under any of the provisions of the Act or of the regulations or orders made thereunder. Surveillance sample is done to monitor the safety and quality of food manufactured, sold or imported in the country. Legal samples are those samples, where after analysis, if an adverse result is received, legal action shall be initiated along with relevant enforcement action for quick relief.

¹⁷ Food business operators of large scale, in the Central Government agencies, airports, seaports etc. with the licence under Central Food Licence Authority doing business across States all over India.

The Act and Rules on Food Safety and Standards have not prescribed any criteria for fixing the number of inspections of FBOs for food inspectors to be carried out during a period of time. Further, the department has also not devised any mechanism or system for fixing the number of inspections of FBOs to be carried out by the food inspectors during a period of time. Further, there was no priority accorded to testing of food items which could be a potential health hazard affecting the high risk population like infants, etc.

During 2016-19, 10,690 samples were tested in DFDT and the details of samples tested are given in the **Table 2.2**.

Table 2.2: Samples lifted and supplied by FBOs

Year	Samples lifted		Samples supplied by FBOs		Total
	Surveillance samples ¹⁸	Legal samples ¹⁹	Miscellaneous	Alcohol	
2016-17	439	4	362	1,772	2,577
2017-18	420	-	583	2,226	3,229
2018-19	2,037	8	447	2,392	4,884
Total	2,896	12	1,392	6,390	10,690

(Source: Records of FSSAI)

Audit scrutiny revealed that the sampling procedure as laid down in the Act was not followed. Instead, samples were collected on random basis. The details of samples collected during 2016-19 are given in **Table 2.3**.

Table 2.3: Details of samples collected during the period 2016-17 to 2018-19

Year	Licences	Registrations	Total	No. of FBOs covered	Samples lifted	Percentage of coverage of FBOs
2016-17	994	2,199	3,193	152	443	4.76
2017-18	1,715	3,980	5,695	112	420	1.96
2018-19	2,482	5,999	8,481	70	2,045	0.83
Total					2,908	

(Source: Records of online FLRS)

Audit noticed that the coverage of FBOs for collection of samples ranged from 0.83 to 4.76 *per cent* of the total number of FBO units registered/licensed (inclusive of multiple samples from one FBO) during the period 2016-19. Thus, limited number of FBOs selected for collection of samples for quality checking indicated that the system of selection of samples was not transparent and did not provide adequate assurance about the safety and quality of food items being manufactured/sold to common public.

¹⁸ Surveillance sample is done to monitor the safety and quality of food manufactured, sold or imported in the country. The samples drawn for purpose of surveillance/survey and research cannot be used for prosecution. There are no norms fixed. The samples are lifted at random by the FSOs.

¹⁹ Legal samples are those samples, where after analysis, if an adverse result is received, legal action shall be initiated along with relevant enforcement action for quick relief.

The Department replied (December 2019) that inadequate coverage of samples from all type of FBOs were mainly due to want of funds to meet out the sample charges. It was also stated that action was being taken to get expenditure sanction.

(b) Fit for consumption certificate issued without analysing safety parameters

Section 20 of the Act, emphasised that no article of food shall contain any contaminant, toxins or hormone or heavy metals in excess of such quantities as may be specified by regulations. Further, as per Section 21, no article of food shall contain insecticides or residues of pesticides, veterinary drugs, solvents, pharmacological active substances as may be specified.

As per Rule 2.4.2(7) of FSS Rules, 2011, the manuals indicating the method of analysis as amended/adopted by the Authority from time to time, shall be used for analysing the samples of food articles.

FSSAI has observed in “National milk safety and quality survey 2018” that safety and quality of milk were maintained and milk was largely safe, contamination due to Aflatoxin M1 and antibiotic residues was a more serious problem than milk adulteration and the quality concerns persisted.

It was noticed that a total of 1,462 samples of rice, 292 samples of weaning food and 116 samples of milk items were tested during the year 2018-19 in DFDT to determine the various characteristics of the food article conforming to the standards required by FSSAI. The number of parameters to be analysed for determining the quality of test checked rice, weaning food and milk items and the actual number of parameters analysed in DFDT are given in **Table 2.4**.

Table 2.4: Details of parameters/characteristics tested/analysed during 2018-19

Name of the article	To be analysed		Analysed		Not tested	
	Para-meters ²⁰	Characteristics	Para-meters	Characteristics	Para-meters	Characteristics
Rice	5	85	2	6	3*	79
Weaning food	5	64	3	7	2**	53
Milk	5	29	3	19	2*	10

* Micro-biological, contaminants and pesticides

** Contaminants and pesticides

(Source: Records of FSSAI)

From **Table 2.4**, it could be seen that the safety parameters were not tested as per the requirement and the shortfall in testing of required parameters in rice samples was 60 *per cent* (2 out of 5 parameters) and 40 *per cent* (3 out of 5 parameters) in weaning food and milk samples, which was inadequate.

²⁰ General parameters, Quality parameters, Microbiological parameters, Contaminants and Pesticides.

It was also noticed that certificate for *fit for consumption* were issued to FBOs and in respect of milk, a *satisfactory report* conforming to the FSSAI standards on quality was issued by DFDT, despite the fact that all the parameters and characteristics were not tested.

On being pointed out, the Department replied (December 2019) that the clause '*fit for consumption*' would not be included in the opinion of the certificate and safety parameters tests viz., pesticides, heavy metals and vitamins would be conducted on procurement of sophisticated instruments.

(c) No follow up action based on the result of analysis of samples

As per Rule 3.1.1 (1) and (2) of FSS Rules, on receipt of the copy of the Report of Food Analyst, the DO shall examine the case as to whether the contravention is punishable with imprisonment or the same is punishable with fine only under the Act. However, if no contravention is established and the sample conforms to the requirement of FSS regulations, the same has to be communicated to the FBO immediately. The details of sample lifted and analysed during the period 2016-19 are detailed in **Table 2.5**:

Table 2.5: Details of sample lifted and analysed during the period 2016-19

Period	No. of FBOs from where sample lifted and analysed	No. of FBOs whose samples found unsafe/substandard
2016-17	439	15
2017-18	420	12
2018-19	2,037	6

Analysis report of Food Analyst indicates that out of the above FBOs whose samples lifted for testing during 2016-19, samples of 33 FBOs were found to be unsafe/sub-standard and the samples of remaining FBOs were found to be in conformity with the requirement of FSS regulations.

However, it was noticed that the Department had not initiated any action against the 33 defaulting FBOs based on the analysis report so as to prevent the FBOs from selling sub-standard/unsafe products. Further, declaration regarding conformity of samples was also not communicated to the FBOs as required under the Act. Audit also observed that considering the quality and efficacy of testing on different parameters and characteristics as observed in paragraph 2.3.2.2, the unfit samples may be on a higher side than actually recorded. This makes it incumbent on the Department to ensure proper infrastructure for testing samples to minimise public hazard of consumption of unsafe samples.

(iii) Monitoring

(a) Non-submission of mandatory return by the FBOs

As per Regulations²¹ every licensee should on or before 31st May of each year, submit a return, in Form²² D-1' in respect of each class of food products

²¹ Regulation 2.1.13 (1) of the Food Safety and Standards Regulations, 2011.

handled by him during the previous financial year. This return will indicate the quantity and value of food products handled by him. Any delay in filing return beyond 31st May of each year would attract a penalty of ₹ 100 per day of delay.

As per data available in the FLRS portal, the total number of manufacturers were 351 for the period from January 2014 to March 2019.

Scrutiny of records revealed that none of the FBOs, engaged in manufacture of food articles, had submitted their mandatory half-yearly/annual returns in any of the years since the formation of the Department. The food safety authorities also, did not impose any penalty against such licensees as of March 2019. Due to non-submission of the return, the DO could not ascertain the volume of business so as to watch whether an FBO operating with registration needed to be brought under licence. This had financial implications in view of the differential charges for registration and licence (Registration fee: ₹ 100 per year; Licence: ₹ 2,000 per year).

Further, audit observed that 102 FBOs had renewed their licence during audit period. In case of default in filing the returns as stated above, the Department could have levied a penalty of ₹ 37 lakh²³ when the licence was renewed in respect of 102 FBOs to ensure compliance of the provisions of the Act. The details of either renewal or otherwise in respect of 249 FBOs were not on record.

The DFS replied (December 2019) that due to non-availability of sufficient ministerial staff in the Department, filing of mandatory returns could not be watched.

(b) Short-collection of revenue due to non-revision of testing charges

As per 2.3.1 (3) of the Regulations for Laboratory and Sample Analysis 2011, a sum of ₹ 1,000 should be payable for analysing food samples and providing certificate of analysis in the format specified. Further, FSSAI introduced (June 2016) packaged rates for complete testing for analysis of food samples. The above sample testing was done as per the requirement of the manufacturers concerned to prove whether their products meet the standards of FSSAI.

Audit observed that the DFDT was charging ₹ 50 per food sample (received from both consumer and FBOs) during 2016-19 as against the prescribed fee of ₹ 1,000 per sample and issued certificate for the analysis done. The non-revision of testing charges for samples tested during 2016-19 led to revenue loss of ₹ 0.73 crore (**Appendix 2.1**). Besides, the certificate of analysis was also not issued in the format as specified in the regulations.

²² **Form D1:** Annual Return to be submitted by the FBOs (other than milk and milk products) on or before 31st May of each year.

²³ ₹ 100 per day for 102 FBOs for 365 days.

The Department accepted the observation and stated that a proposal is under consideration on the lines of the testing charges collected by Tamil Nadu Government.

(c) Information, Education and Communication activities

Neither the UT of Puducherry nor Food Safety Authority undertook any Information, Education and Communication activities for the awareness of consumer/ FBOs on effective implementation of the Act. There was no awareness campaign among general public or FBOs through print or electronic media on ensuring food safety.

2.3.3 Conclusion

Even after nine years of the implementation of the Act, the Department could not make all the FBOs register or obtain licences under the Act. FBOs continued operation even after expiry of the validity of registration/ licence in the absence of any system to track the periodical renewal of licences.

Though envisaged in the Act, the Department could not deploy adequate number of Designated Officers and Food Safety Officers and had been functioning with significant shortage of man-power. Such shortage of man-power, coupled with the absence of any target for the collection of food samples, resulted in grossly inadequate number of inspections and food samples being collected. Given the fact that the test reports showed “sub-standard” results, the shortfalls in inspection and sample collection have the potential to expose the consumers to severe risks from unsafe food products. Implementation of the Act was poor, largely due to inadequate human resources.

Only one Food Testing Laboratory was available for food testing and that too with shortage of equipment and chemicals. Non-strengthening of infrastructure facilities in the laboratory had resulted in issue of test reports without analysing all the required safety parameters. Consumers remained exposed to unsafe food-stuff as some vital tests are not conducted in those laboratories. Even the accuracy of the test results was questionable as the functional laboratory was also deficient in infrastructure.

Proper monitoring of food safety on the analysis report of the Food Analyst was not in place. Further, follow-up action on the report also was not taken. No awareness campaigns were undertaken and scant regard was given to Information, Education and Communication activities.

The gaps in implementation of the Act clearly indicate that food safety was not prioritised and given the importance it deserved. The adverse implications on health of the populace are thus a matter of serious concern.

The matter has been referred to Government in January 2020; reply has not been received (September 2020).

2.3.4 Recommendations

- i. The Department may augment the human resources to ensure effective implementation of the Act. Further, adequate infrastructure may be provided for food testing laboratory at the earliest so that all parameters may be checked.
- ii. Regularity mechanism in grant/renewal of licenses to FBOs should be streamlined and enforcement mechanism should be strengthened to implement the Act effectively.
- iii. Awareness campaign may be undertaken to highlight the need for consumption of safe food in public places.
- iv. Effective monitoring of Food Safety in all sectors of the business may be ensured by updating data of licenses in real time and inspections may be made on a regular basis.

Appendix 2.1
(Reference: Paragraph 2.3.2.3 (iii) (b); Page 30)
Non-revision of testing charges for food samples - 2016-2019

(in ₹)

Sl. No.	Name of the Food Product	No. of food samples	Amount charged per sample	Total amount charged	Amount chargeable (₹ 1,000 per sample)	Short collection of revenue (6)–(5)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Weaning Food	800	100	80,000	8,00,000	7,20,000
2	Milk products	286	50	14,300	2,86,000	2,71,700
3	Water	358	50	17,900	3,58,000	3,40,100
4	Alcoholic Beverages	2,469	50	1,23,450	24,69,000	23,45,550
		3,841	100	3,84,100	38,41,000	34,56,900
		169	150	25,350	1,69,000	1,43,650
5	Rice	15	50	750	15,000	14,250
6	Grocery	18	50	900	18,000	17,100
Total		7,956		6,46,750	79,56,000	73,09,250