

Date: 23rd October 2019

To,
The Registrar of Geographical Indications,
The Office of Geographical Indications Registry,
G.S.T. Road, Guindy,
Chennai 600032

Subject: Objection to G.I. No. 612 – ‘Odisha Rasagola’

Sir / Madam,

I would hereby like to lodge an objection to the granting of geographical indication for ‘Odisha Rasagola’ (G.I. No. 612), from the legal perspective.

Please find enclosed herewith three copies of the objection petition and a demand draft (DD No. 538493) dated 23.10.2019 of Rs. 1000/- (Rupees one thousand only) in favour of ‘The Registrar of Geographical Indications’, payable at Chennai towards the cost of objection application.

In support of the communication of objection petition, a copy of the objection petition has been sent to each of The Odisha Small Industries Corporation Limited (OSIC Ltd.) and Utkal Mistanna Byabasayee Samiti.

I do humbly request your good office to do the needful as per law.

Yours sincerely,

Date: 23.10.19

Place: Taloja

Smritilekha

(SMRITILEKHA CHAKRABORTY)

D/O Late Prabir Kumar Chakraborty

203, Pacific Avenue, Sec-19, Plot-25

Taloja 410206, Maharashtra

smritilekha.chakraborty@gmail.com

NATIONALITY - INDIAN



Before The Registrar, of Geographical Indications,

At – The Office of Geographical Indications Registry,

G.S.T. Road, Guindy, Chennai – 600032

Form – GI-6

Subject: Objection to GI No. 612 – ‘Odisha Rasagola’

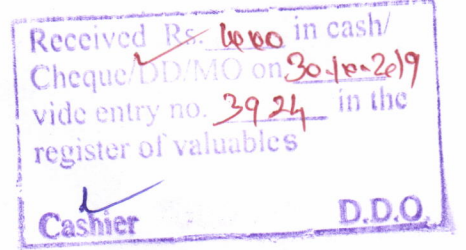
Before The Registrar, of Geographical Indications,

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Form – GI-6



To,
The Registrar, of Geographical Indications,
The office of Geographical Indications Registry.
G.S.T. Road, Guindy,
Chennai 600032
Tamil Nadu, India

In the matter of: An application under Geographical Indications
of Goods (Registration and Protection) Act,
1999 and the rules made there under

AND

In the matter of: An application for cancellation of Geographical
Indication No. 612 from the register in respect
of 'Odisha Rasagola'

AND

In the matter of: Smritilekha Chakraborty, aged 31, D/O Late
Prabir Kumar Chakraborty, resident of 203,
Pacific Avenue, Sec-19, Plot-25. Taloja,
Maharashtra 410206, India

(OBJECTOR)

The humble petition of the objector / petitioner
above named;

Most Respectfully Showeth:

1. That the OBJECTOR in the case namely Smritilekha Chakraborty, aged 31, D/O Late Prabir Kumar Chakraborty, resident of resident of 203, Pacific Avenue, Sec-19, Plot-25, Taloja, Maharashtra 410206, India, is a concerned citizen of India.
2. That the present objection petition is being filed on its own and not at the insistence of someone else.
3. That the facts in brief is that Rasogolla is a sweet made of cottage cheese ('*chhana*' in Bengali) dumplings dipped in sugary syrup, first prepared by Nabin Chandra Das in Kolkata in 1860s and since then being prepared by numerous confectioners all over West Bengal. For more than a century, Rasogolla has been the most popular Bengali sweet ever to be invented and has become an integral part of Bengali culture. In 2015, the Government of West Bengal applied for Geographical Indications tag for Rasogolla in the name of 'Banglar Rasogolla' and received the G.I. status in 2017. In 2018, the Government of Odisha applied for Geographical Indications tag for a sweet called 'Rasagola' in the name of 'Odisha Rasagola' and received the status in 2019.
4. That the OBJECTOR believes that the registration of the Geographical Indication for 'Odisha Rasagola' from the legal point of view is untenable on several grounds as explained in the subsequent paragraphs.

5. It is a well known fact that "chhana" (Bengali cottage cheese) was considered an impurity among ancient Indians. Which is why "chhana" products were never offered to the Hindu Gods & Goddesses as "bhog" or "prasadam". There are many evidences from the Indian history and mythologies. Lord Krishna was an avid admirer of all other milk products including Ghee, Milk, Butter, Curd; but there's no mention of Lord Krishna consuming "chhana" or any other "chhana" products.
6. Another famous Indian product, made from "chhana", called "Paneer" (Indian cottage cheese) also has its' roots in Turkey and Persia. The word "Panir" itself is Persian. The technique of "breaking milk" and preparing "chhana" was first introduced in Bengal by Portuguese and Dutch travellers.
7. It is also to be noted that 15th century Bengali saint Chaitanya Mahaprabhu was also fond of "chhana". However, that "chhana" was a simple curdling of boiled milk with Lemon or Curd. "Chhana" prepared in such manner retained a lot of liquid and lacked the binding power required to make any sweet. And because it lacked the binding power, it was impossible to mould the "chhana" into any form or shape. It is only after the arrival of Dutch & Portuguese, did the Bengali artisans learnt to prepare "chhana" in such a way so that it could be moulded into a shape. The first such product that was made in Bengal under Dutch supervision, still exists in the name of "Bandel Cheese". Therefore, it is clearly evident from the history, that "Rasogolla" is not only a rather modern invention; but also the invention of "Rasogolla" in Bengal was only made possible by learning the tricks to make mouldable "chhana" from the Dutch & Portuguese.

8. On the contrary, it is being argued in the petition for "Odisha Rasagola", that the name "Rasagola" appears in Dandi Ramayana, which is a 15th century text by Balarama Dasa.

- a) However, the word "Rasa" means syrup or liquid or juice and "Gola" could mean a round shaped ball or a mixture. So "Rasagola" could mean "a round shaped ball floating in liquid syrup" or "a mixture of different juices".
- b) No further explanation has been provided by the petitioner, as to which of the above has been referred to in the said "Dandi Ramayana".
- c) Nothing has been explained in the "Dandi Ramayana" which conclusively proves that "Rasagola" means a round ball of "chhana" floating in a sugary syrup. In the absence of such explanation, a "Rasagola" can be a round shaped ball of any thing or it could also have referred to a mixture of different juices. Therefore, a mere mentioning of the word "Rasagola" in a 15th century book, does not prove that it indeed is the same product as "Banglar Rasogolla". Nor could it be used as a base to claim, that "Odisha Rasagola" predates "Banglar Rasogolla".

9. Question also arises on the authenticity of such appearance in the "Dandi Ramayana" itself. The source and the veracity of such archaic literature has not been verified by an independent authority-

- a) Whether the word "Rasagola" indeed appears in Dandi Ramayana written in Odia text.
- b) Whether the word "Rasagola" appears in the 15th century manuscript of "Dandi Ramayana" or it is an addition to the later version of "Dandi Ramayana".

10. "Rasogolla" is not a generic term. The origin of the word "Rasogolla" can be clearly traced to Bengal. The fact, that this sweet has gained unprecedented popularity across India & the globe; is a matter of credit for the Bengali sweet-makers & artisans. And as the sweet became famous, the word "Rasogolla" became synonymous with it. The legal system of Geographical Indication was created for this very purpose, so that the creation can be protected by the creators. Therefore, Geographical Indication is a method to preserve the intellectual property rights of a community. Treating "Rasogolla" as a generic word due to its' popularity is akin to adopting punitive measures for making a product successful. Granting GI of "Rasogolla" to any other state, by any name that sounds similar to "Rasogolla" is an act of cultural appropriation.

11. That the registration of the product under the name of 'Odisha Rasagola' falls under the purview of the product being 'deceptively similar' as per Section 2(c) of The Geographical Indications of Goods (Registration and Protection) Act, 1999. The word 'Rasogola' is very similar in pronunciation and spelling to 'Rasogolla', the word contained in the name of an existing G.I. registered product of similar nature ('Banglar Rasogolla' – G.I. No. 533, registered in 2017) and therefore should be considered as deceptively similar to extent of creating confusion and deceiving the consumers and beneficiaries. Rasogolla has a huge existing international market and the potential to grow manifold. However, with the confusion being created through the registration of 'Odisha Rasagola', it is not unlikely for the Indian export figures to go down. The manufacturers of 'Banglar Rasogolla' who

are the supposed beneficiaries of the G.I. registration of their product would be the worst sufferers because of this deceptive similarity.

12. That the registration of a food product that has been used as an offering to a deity at a specific temple in a certain place for centuries, under Geographical Indication violates the 11(2)(a) of The Geographical Indications of Goods (Registration and Protection) Act, 1999. The section states that the product should have specific quality, reputation or other characteristics which are essentially and exclusively for the geographical environment, with its inherent natural and human factors. In the case of 'Odisha Rasagola', neither its specific quality, reputation nor any other characteristic is because of the geographical environment where it is prepared. The same product with its specified ingredients and process can be prepared anywhere in the world. There is no natural or human factor behind it. It is only the divine factor which has contributed to its reputation, as the product has been claimed by Odisha to have evolved from Ksheermohan, the sweet that has been traditionally offered to Lord Jagannath of Puri for centuries. However, it is to be noted that Kheer and Chhana are completely different by-products of Milk, therefore completely eligible to be registered as different products under the current law of Geographical Indication in India.

13. Rasogolla has been known since its' inception, as a product of Bengal. All across India, sweet shops have maintained a separate section for "Bangali Mithaiya" and Rasogolla is the premium product in that section. The worldwide popularity of "Banglar Rasogolla" has been achieved due to its' standardized preparation method, rigorous following of the due process and maintaining the