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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **ODISHA RASAGOLA V. BENGAL ROSOGOLLA** **CONTROVERSY: A SWEET BATTLE OVER THE** **GEOGRAPHICAL INDICATION TAG**

AUTHORED BY - TANVI TRIVEDI

## **ABSTRACT**

The Odisha Rasagola v. Bengal Rosogolla controversy is a contentious issue over the Geographical Indication (GI) tag for the famous sweet delicacy. Both Odisha and West Bengal have been claiming ownership of the sweet, which has been a part of their respective cultures for centuries. The GI tag is a recognition given to a product that originates from a particular region, and it provides legal protection against imitation and misuse. The battle for the GI tag has been going on for several years, with both states presenting their historical and cultural evidence to prove their claim. The controversy has sparked debates and discussions in the public domain, with people from both states expressing their views on the issue. This article presents the legal battle of the Odisha Rasagola v. Bengal Rosogolla controversy, highlighting the significance of the GI tag and the cultural and historical context of the issue.

**Keywords:** Geographical Indication Act, 1999, Odisha Rasagolla, Bengal Rosogolla, Geographical Indication Mark.

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## **PROLOGUE**

The term geographical indication [“GI”] refers to a sign that can be found on products that have certain attributes, characteristics, or reputations that can be traced back to their geographical origin.<sup>1</sup> There must be a direct connection between the end product and the location where it was manufactured. The Geographical Indications of Goods (Registration and Protection) Act, 1999 is the piece of legislation that was passed in India in order to ensure the protection of Geographical Indications.<sup>2</sup>

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<sup>1</sup>. WIPO, [https://www.wipo.int/geo\\_indications/en/](https://www.wipo.int/geo_indications/en/) (last visited Jun. 10, 2023).

<sup>2</sup>. Geographical Indication Act, 1999, No. 48, Acts of Parliament, 1999 (India).

Products that have been awarded a GI tag can be classified into one of four distinct groups according to the characteristics that define them:

- Agricultural: for instance, Darjeeling Tea from West Bengal<sup>3</sup>;
- Handicraft: for instance, Chanderi Sarees from Madhya Pradesh<sup>4</sup>;
- Manufactured: for instance, Mysore Sandal Soap from Karnataka<sup>5</sup>; and
- Food Stuff: for instance, Bikaneri Bhujia from Rajasthan.<sup>6</sup>

This article discusses the recent dispute that occurred between the states of Odisha and West Bengal on the origin of the ever-popular sweet dessert known as “Rasgulla.” In pursuance of an application filed on behalf of the West Bengal State Food Processing and Horticulture Development Corporation Limited (WSFPHDCL) for the purpose of gaining such status, the<sup>7</sup> Geographical Indication (GI) registry of Chennai awarded the state of West Bengal the GI designation to ‘Banglar Rasogolla’ in the year 2017. Recently, the Geographical Indication (GI) designation was also awarded to the state of Odisha for the ‘Odisha Rasagola,’ which is said to be manufactured in a village in Odisha known as Pahala.<sup>8</sup>

Despite the fact that both states have been given the GI designation for the same sweet dish, there are numerous ways in which the two delicacies differ from one another.

## LEGAL ANALYSIS

### 1. The Origin of the Sweet Battle

West Bengal and Odisha are at odds over who gets to use the GI label for the popular Indian dessert known as rasgulla. This controversial topic has caused a great deal of tension.<sup>9</sup> The two countries are competing to have their distinct culinary traditions recognized and protected. The

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<sup>3</sup>. Sutanuka Ghosal, *Darjeeling green, white teas get GI backing*, THE ECONOMIC TIMES (Nov. 18, 2019, 11:01 AM), [https://economictimes.indiatimes.com/markets/commodities/news/darjeeling-green-white-teas-get-gibacking/articleshow/72103877.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/markets/commodities/news/darjeeling-green-white-teas-get-gibacking/articleshow/72103877.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

<sup>4</sup>. GEOGRAPHICAL INDICATIONS REGISTRY, <https://search.ipindia.gov.in/GIRPublic/Application/Details/7> (last visited Jun. 10, 2023).

<sup>5</sup>. STAR OF MYSORE, <https://starofmysore.com/18-items-from-mysuru-region-get-gi-tag/> (last visited Jun. 11, 2023).

<sup>6</sup>. Nikita Toppo, *Story of Bikaner Bhujia: A Snack that Gave an Identity to a City*, SLURRP (Jan. 24, 2023), <https://www.slurrrp.com/article/story-of-bikaner-bhujia-1661179934356>.

<sup>8</sup>. Asit Ranjan Mishra, *After West Bengal, Odisha gets GI tag for its version of Rasagola*, MINT (Jul. 29, 2019, 03:45 PM), <https://www.livemint.com/news/india/after-west-bengal-odisha-gets-gi-tag-for-its-version-of-rasgulla-1564394962835.html>.

<sup>9</sup>. Ram Sharma, *Geographical Indication in context of the Rasgulla Controversy*, MONDAQ (Jan. 30, 2020), <https://www.mondaq.com/india/trademark/879718/geographical-indication-in-context-of-the-rasgulla-controversy>.



dispute revolves over who can rightfully claim to be the creator of this delicious dessert.

Millions of people in India have a soft spot in their hearts for the chewy and sugary rasgulla. For a long time, it has been an integral part of the celebrations all around the country. West Bengal and Odisha, both of which have illustrious culinary history, are at odds over which state may legitimately claim ownership of the delicious delicacy.

The Odia state government claims that the famous rasgulla dessert was first created at the Jagannath Temple in Puri. Bhog offerings of rasgulla to Lord Jagannath are thought to have been practiced for many centuries and may even have ancient origins. Odisha claims that a historical and religious connection validates the state's claim to be the true birthplace of the rasgulla confection.

However, West Bengal has its own intriguing account of the rasgulla's beginnings. The capital of West Bengal, Kolkata is widely regarded as the region's cultural epicentre, especially for its delicious sweets. Bengali cuisine has had a significant impact on the culinary traditions of Bengal, particularly with regard to the use of dairy-based components in sweet recipes.

Nobin Chandra Das, a famous confectioner from Kolkata, is widely credited with inventing the modern rasgulla sometime in the late 19th century. The state of West Bengal claims this actually occurred. Popular legend holds that Das perfected the method of making porous rasgullas by coagulating milk and then moulding the coagulated milk into tender, spherical spheres that were then dipped in a sugar solution and heated. It was Das who accomplished this. West Bengal claims it should be recognized as the true guardian of rasgulla because of its long history of culinary innovation and outstanding proficiency in its manufacture.<sup>10</sup>

## **2. Settled Controversy?**

The GI tag is a type of intellectual property that provides legal protection to goods that are only connected with a certain geographical area. The two states independently submitted their respective applications for the tag. The goal of this action was to put an end to the conflict. The award of a Geographical Indication (GI) acknowledges the distinctive characteristics and reputation connected with a specific product. This procedure protects the product from deception and improper use by authenticating it.

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<sup>10</sup>. WION Web Team, *Nobin Chandra Das: The man who made the rasgulla*, WION, (Nov. 14, 2017, 06:32 PM), <https://www.wionews.com/india-news/nobin-chandra-das-the-man-who-made-the-rasgulla-24225>.

The geographical indication (GI) designation for the rasgulla was given to the state of West Bengal in November 2017 following a careful examination of the historical justification, cultural relevance, and traditional practices that were provided.<sup>11</sup> The judgment sparked a wide range of responses, from joy in West Bengal to displeasure in Odisha.

The current debate over the Geographic Indication (GI) classification of rasgulla is a good illustration of the difficulties involved in tracing the origins of cultural objects of substantial historical value. Additionally, it emphasizes the value of keeping gastronomic traditions alive and honouring the contributions made by people and communities to the development of a region's culinary legacy.

Although the GI tag ended the legal battle, it is vital for both governments to address their divergent claims and recognize the joint cultural legacy connected to rasgulla.<sup>12</sup> This argument emphasizes the need of preserving and enhancing the diversity of food cultures, as well as the connection between culinary traditions and regional identity and pride.

### **3. Moving Forward: Reconciliation and Preserving Regional Diversity**

The dispute over the rasgulla GI between West Bengal and Odisha has brought to the forefront the need for reconciliation as well as the maintenance of regional variety. Even if the legal dispute was resolved when the GI tag was awarded to West Bengal, it is extremely important for both states to locate areas of common ground and celebrate the cultural history they have in common.

In the first place, there needs to be some sort of conversation and open lines of communication created between the many people involved. Representatives from West Bengal and Odisha will be able to take advantage of this opportunity to participate in productive dialogue with one another, gain an understanding of the perspectives held by the other, and search for a settlement that is advantageous to all parties. It is possible to get past the dispute and concentrate on the preservation of the distinctive culinary traditions of both states if a spirit of collaboration is fostered. This will make it possible.

It is possible to take on a cooperative strategy in order to promote the many distinct regional variations of rasgulla. It is possible to make an effort to promote the various qualities and methods of preparation of rasgulla from both West Bengal and Odisha rather than viewing the debate as a

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<sup>11</sup>. Sumanta Ray Chaudhari, *Rosogolla originated in West Bengal, rule GI authorities, rejecting Odisha's claim*, (Nov. 14, 2017, 10:27 PM), <https://www.hindustantimes.com/india-news/bengal-wins-the-rosogolla-battle-authorities-say-sweet-didn-t-originate-in-odisha/story-kAfHmCXBDG03logw9fo53L.html>.

<sup>12</sup>. Ram Sharma, *supra* note 9.

situation in which one side must win and the other must lose. Not only will this demonstrate the vast cultural diversity, but it will also foster a greater appreciation for the complex flavours and gastronomic knowledge that are unique to each region.

Additionally, collaborative efforts can be made to create food festivals, cultural exchanges, and culinary workshops that bring together the culinary skills of West Bengal and Odisha. These activities could take place in both of these states. These kinds of events can act as forums for presenting the finest aspects of the gastronomic traditions of both states, including not only rasgulla but also other regional specialties like ice cream and confections. These programs have the potential to generate a sense of unity and pride among the people by celebrating the heritage that is shared by all while also acknowledging the accomplishments of individuals.

Education and awareness are two of the most important factors in the maintenance of regional diversity. It is possible for educational institutions such as schools, colleges, and cultural institutions to incorporate lessons on regional cuisines, histories, and traditions into their curricula. The younger generations will benefit from this in that it will help inculcate a sense of pride and understanding among them regarding the rich culinary legacy of West Bengal and Odisha. In addition, public awareness campaigns, workshops, and interactive sessions can be arranged to educate people about the value of regional diversity and the critical importance of preserving it.

In addition, there should be efforts made to document and archive the cultural customs, recipes, and anecdotes that are related with rasgulla and other traditional types of sweets. This will not only ensure that culinary legacy is preserved, but it will also give important resources for future generations and scholars. In the context of such endeavors, collaboration among local governments, cultural groups, and culinary institutes is a viable option for the compilation of comprehensive catalogs and digital repositories.

## **CASE LAWS**

There were no particular case laws that were connected to the debate between the GI tag and the Rasgulla. The controversy that arose between the states of West Bengal and Odisha over the geographical indication (GI) tag for rasgulla was ultimately settled by the GI registry through an analysis of the historical evidence, the cultural relevance, and the traditional behaviors involved. Instead of being decided through judicial proceedings or special case laws, the decision to award the GI tag to West Bengal was decided based on the aforementioned considerations.

However, the case of *Scotch Whisky Association v. Pravara Sahakar Karkhana Ltd.*<sup>13</sup>, is a prominent legal precedent regarding geographical indication. The plaintiff, Scotch Whisky Association, a corporation established under the Companies Act of the United Kingdom, initiated a passing off lawsuit against the defendants. The defendants are manufacturers of several Indian Whisky brands, including blended scotch whisky or “Blended with Scotch,” marketed under the brand names Drum Beater and God Tycoon. Based on the aforementioned circumstances, the Bombay High Court determined that the Plaintiff possessed ample interest to impede the act of passing off Indian Whisky produced by the defendant and to forestall any harm to the reputation and goodwill of Scotch whisky. The defendants were engaging in the act of passing off their merchandise as blended Scotch whisky, despite the fact that it did not meet the necessary qualifications to be classified as such. Thus, the circumstances warranted the granting of an interim injunction.

Further, in the case of *Tea Board of India v. ITC Limited*<sup>14</sup> ITC Ltd. was sued by the Tea Board of India for violating the plaintiff's certification mark and geographical indication mark by using the name "Darjeeling" at one of its refreshment bars at its hotel in Calcutta. The complainant is recognized as the trademark holder for "Darjeeling." The Geographical Indication of Goods (Registration & Protection Act) of 1999 and the Trade Marks Act of 1999 both require independent registration of the marks. The phrase "Darjeeling Lounge" was coined by ITC in January 2003. The Tea Board was informed later in April 2005 of the ITC's trademark application for "Darjeeling lounge." Following the exchange of several notices, the plaintiff brought a lawsuit before the court in 2010 and asked for a temporary injunction against the alleged defendant. The Court held that the Geographical Indication Protection is confined only to the goods (tea in the instance case) and it cannot be extended to services like “hospitality”. The lawsuit was dismissed by the court with a cost of Rs. 1 lakh after concluding that it was frivolous.<sup>15</sup>

### ***Banganapalle Mangoes Case***<sup>16</sup>

Andhra Pradesh officially received the Geographical Indication Tag after an excruciating wait of 100 years, allowing it to enjoy the sweetness of its Banganapalle Mangoes. After the Horticulture Commissioner of Andhra Pradesh submitted an application, the Geographical Indications Registry

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<sup>13</sup>. Scotch Whisky Association v. Pravara Sahakar Karkhana Ltd., 1991 SCC OnLine Bom 271: AIR 1992 Bom 294.

<sup>14</sup>. Tea Board v. ITC Limited C.S. No. 250 of 2010.

<sup>15</sup>. IPR LAW INDIA – INDIAN IP LAW RESOURCES, <https://iprlawindia.org/caselaw/tea-board-india-vs-itc-limited/> (last accessed on Jun. 12, 2023).

<sup>16</sup>. S.S. RANA & Co., <https://ssrana.in/articles/india-banganapalle-mangoes-gets-a-geographical-indication-gi-tag/> (last accessed on Jun. 12, 2023).

in Chennai issued the tag.

Banganapalle mangoes, known as the "King of Fruits," are now legally owned by the State Government of Andhra Pradesh. The government chose a brightly coloured yellow fruit with the phrase "Banganapalle mangoes of Andhra Pradesh" surrounding it as its emblem, along with pictures of a man and a woman who appear to be farmers. Anyone who wishes to sell or produce these in the future must first seek to become an authorised user and secure a non-objection certificate (NOC) from the horticulture department of the Andhra Pradesh government.

## **EPILOGUE**

The tremendous competition and emotional attachment that is linked with culinary legacy may be seen in the origin of the rasgulla issue over the GI tag between West Bengal and Odisha. This controversy involved the sweet treat known as rasgulla. As the argument went on and on, it brought to light the necessity of striking a balance between historical claims and contemporary developments. This, in turn, brought to light the significance of cultural preservation and appreciation in a society that is both diverse and dynamic.

In order to get past the debate regarding the rasgulla GI, one must demonstrate a dedication to both the pursuit of reconciliation and the protection of regional diversity. Both West Bengal and Odisha are able to commemorate their common ancestry while also paying tribute to the distinctive ways in which each state has contributed to the world. This is accomplished by encouraging conversation, supporting collaborative projects, raising awareness, and documenting cultural practices. In the end, the only way the history of rasgulla and the culinary traditions of these republics can be maintained and cherished for future generations is via efforts such as these.