

Central Consumer Protection Authority

Krishi Bhawan, New Delhi --110001

Case No: CCPA/23/2023-CCPA

In the matter of: Vajirao & Reddy Institute regarding misleading advertisement and unfair trade practice.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Vajirao & Reddy Institute: - Ms. Satakshi Sood, Advocate

Date: 22.11.2024

ORDER

1. This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as 'CCPA') against Vajirao & Reddy Institute (hereinafter referred as 'opposite party') wherein it was observed that the opposite party had allegedly published the following misleading advertisements on its website (www.vajiraoinstitute.com/):-

- i. 617 selections out of 933 in UPSC CSE 2022
- ii. 7 in Top 10 AIR
- iii. 16 in Top 20 AIR
- iv. 39 in Top 50 AIR
- v. 72 in TOP 100 AIR
- vi. We are ranked at 1st position among the list of top UPSC Coaching Institutes in India.

2. Accordingly, in exercise of the power under Section 18 & 19 of the Consumer Protection Act, 2019, CCPA took cognizance of the matter and conducted a preliminary inquiry to examine veracity of the claims in the impugned advertisement made by the opposite party. As per preliminary inquiry report, it was found that the

opposite party prominently displayed successful candidates' names & pictures and simultaneously advertised various types of courses provided by them on its official website. However, the information with respect to the course opted by the said successful candidates in UPSC Civil Service exam 2022 was not disclosed in the abovementioned advertisement. It is important to mention that neither any description to substantiate the above-noted claims was mentioned in the advertisement nor any information or document was available to substantiate the claims advertised by opposite party.

3. Thereafter, the CCPA issued a notice dated 12th June 2023 to the opposite party for violation of provisions of the Consumer Protection Act, 2019 highlighting the issue of misleading advertisement by concealing important information and making tall but unsubstantiated claims about results from the opposite party. An opportunity to furnish response within 15 days of the issue of the Notice was given to the opposite party.

4. In response to the notice, a reply dated 05.07.2023 was received wherein the opposite party made the following submissions:-

- i. CCPA lacks the necessary jurisdiction to proceed against the Coaching Institute.
- ii. Using adjectives such as 'best' or 'top' is a common practice and an industry norm to use adjectives to describe ones services and the same is neither misleading nor untrue.
- iii. Refused to provide following information with respect to the so claimed 617 selections in UPSC CS 2022.
 - a. Type of course and duration of the course attended by such selected candidates.
 - b. Enrolment/consent form.
 - c. Fee paid along with the copies of receipt.
- iv. Annexure A- NCDRC Case- Manu Solanki & Drs. v. Vinayaka Mission University & Drs. 2020 (1) CPR 773.
- v. Annexure B- Advertisements published by Institute with respect to result of UPSC CSE previous years.

vi. Annexure C- List of all the other institutes naming themselves as The Best IAS Coaching Institute.

5. On 10.08.2023, an opportunity of hearing was provided to the opposite party wherein opposite party was represented by Ms. Satakshi Sood, Advocate made the following submissions:-

- i. CCPA does not have the necessary jurisdiction to proceed against the Coaching Institute.
- ii. Using adjectives such as 'best' or 'top' is a common practice which is adopted not only by their institute but also by other coaching institutes, who provide similar services. It is therefore the same advertisement which is not misleading consumers.
- iii. During hearing also, the Institute refused to provide following requisite information sought by CCPA:-
 - a) Type/name of course attended by 617 students claimed by the Institute,
 - b) Duration of the course attended by such student,
 - c) Date of joining by such student,
 - d) Enrollment/consent form,
 - e) Fees paid along with the copies of receipt,
 - f) which authority or third party survey has awarded them the status so that the Institute made the claim of “Best IAS Coaching & Top IAS Academy in Delhi” and “We are ranked at 1st position among the list of top UPSC Coaching Institutes in India”.

6. In view of the above, CCPA passed an Interim Order dated 24.08.2023 wherein following directions were issued:-

- i. CCPA monitors matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers. Section 18 Powers and functions of Central Authority states that the Central Authority shall ensure that no false or misleading advertisement is made in respect of any goods or services which contravenes the provisions of this Act or the rules or regulations made thereunder. Therefore, unquestionably presentation of false or misleading advertisements by coaching institutes are within the domain of the CCPA.
- ii. The opposite party shall submit following requisite information by 04.09.2023 :-

- a) Type/name of course attended by 617 students claimed by the Institute,
 - b) Duration of the course attended by such student,
 - c) Date of joining by such student,
 - d) Enrollment/consent form,
 - e) Fees paid along with the copies of receipt,
 - f) And which authority or third party survey has awarded them so that the Institute could make the claim of “Best IAS Coaching & Top IAS Academy in Delhi” and “We are ranked at 1st position among the list of top UPSC Coaching Institutes in India”.
- iii. In exercise of the power vested with CCPA under Section- 18 & 19 of Consumer Protection Act, 2019, CCPA may initiate investigation into the matter as provided by the statute.

7. The CCPA received an email from the opposite party on 04.9.2023, in which they submitted courses opted by successful candidates from opposite party's institute in a tabular form. The submissions of the opposite party were examined and after careful consideration, CCPA was satisfied that there exists a prima facie case of violations of the provisions of the Consumer Protection Act 2019 by the opposite party.

8. In view of the above, CCPA vide letter dated 15.09.2023 requested Director General (Investigation) to conduct a detailed investigation into the matter.

9. The Director General (Investigation) in its investigation report dated 05.06.2024 submitted the following:

- i. Despite repeated requests, opposite party only provided the names, UPSC roll numbers, its own enrollment numbers, and course name of the claimed students in the tabular form. However, it did not supply supporting documents such as consent form, enrollment forms or fee receipts as asked by the investigation team to verify the claim made in the impugned advertisement.
- ii. All the claimed 617 candidates were enrolled for Personality test (Interview) phase of the UPSC CSE exam which is the 3rd phase of the examination and comes after the Pre & Mains phase. This information should have been mentioned in the advertisement so that the potential aspirants and their parents/guardians could take informed decision. Information regarding

course(s) opted by the successful candidates is an important information for consumers to know so that they can make informed choice while deciding which institute to join & which course to opt for to prepare for UPSC Civil Service exams.

- iii. Section- 2(28) of Consumer Protection Act, 2019 define misleading advertisement in relation to any product or service, means an advertisement, which includes deliberately concealing important information or gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service.
- iv. In the present case, type/name or duration of course opted by selected candidates is important information for the consumer so that they can make an informed choice as to which institute to join & which course to opt for to prepare for UPSC Civil Service exams.
- v. Several coaching institutes prominently use the same successful candidates' names, pictures and videos in their advertisements while deliberately concealing important information from consumers as a class with respect to course opted by such successful candidates which consequently misled consumers believing that respective successful candidates has taken paid classroom course from the coaching institutes.
- vi. As of 06.06.2024, Vajirao & Reddy Institute is still prominently using names, pictures of the successful candidates of UPSC Civil Service Exam 2022 on its official website (www.vajiraoinstitute.com).
- vii. The advertisements by the Vajirao & Reddy Institute which display selected candidates must also mention the type/name and duration of the course opted by the selected candidate so that potential aspirants can make well informed choice a consumer right recognized under Section-2(9) of the Consumer Protection Act, 2019. As this was not done by the Vajirao & Reddy Institute in its advertisement, hence it appears to be in potential violation of Section- 2(9) and Section 2 (28) (ii) & (iv) of the Consumer Protection Act, 2019.

10. The Investigation Report submitted by DG (Investigation) was shared with the opposite party vide letter dated 08.07.2024 to furnish its comments, if any within 7 days.

11. In response to the investigation report, the CCPA received a reply from the opposite party on 29.07.2024, wherein, following submissions were made:

- i. Cooperated with the investigation of the CCPA and has provided all documents/details as sought, until and unless the same were in violation of the fiduciary duty owed by the Institute to its students.
- ii. The courses opted by the successful students can be considered as useful for the benefit of potential aspirants, however, the bona fide omission to provide the said information in its advertisements, cannot be considered as 'deliberate concealment' of information.
- iii. In the absence of any guideline/regulation whereby it is laid out as to what all information is required to be published in an advertisement by coaching centers, the bona fide omission to provide a particular information cannot be construed against the coaching center.
- iv. Upon receipt of the investigation report, the Institute has suo moto published the information regarding type and duration of course attended by the erstwhile students on its website so that the same is available for all potential aspirants.
- v. Even if the aspirants have only availed the services for preparing for the interview, the said aspirants will be considered as students of its institute and it cannot be said that the same have been wrongly shown to be students of its institute.
- vi. Investigation Report wrongly holds that institute's refusal to provide documents which contain personal information of the students is a failure to substantiate that the said students availed the service of institute.

12. Thereafter, an opportunity of hearing was provided to the opposite party on 13.08.2024 wherein opposite party was represented by Ms. Satakshi Sood, Advocate submitted the following:-

- i. Started publishing information regarding type of course attended by the successful candidate of UPSC CS 2022 on its website.
- ii. Provided list of students and course opted by them to CCPA.
- iii. Cannot provide enrolment form or consent form etc. as it contains personal information of successful candidates.
- iv. Not claiming any student who did not avail the services of the opposite party institute.

- v. Common practice for a student to avail services of multiple coaching institutes.
- vi. Using adjectives such as 'best' or 'top' is a common practice which is adopted by many coaching institutes who provide similar services.
- vii. Used the phrase “We are ranked at 1st position among the list of top UPSC Coaching Institutes in India” because our institute has a high selection rate and is providing good services.

13. With reference to the hearing conducted on 13.08.2024, CCPA via mail 14.08.2024 directed the opposite party to submit the following documents within 2 weeks i.e. latest by 28th August 2024.

- i. Application/Enrollment/Registration forms of following successful candidates claimed by the institute for the courses they have undertaken at the institute, along with details of specific courses attended by each of the candidate, for the following claims:-
 - a. 617 selections out of 933
 - b. 7 in Top 10 AIR
 - c. 16 in Top 20 AIR
 - d. 39 in Top 50 AIR
 - e. 72 in TOP 100 AIR
- ii. Proof of fees paid (whether cash, cheque or any other means), including receipts generated for such application/enrollment forms.
- iii. Substantiate the claim with verifiable/substantive evidence- “We are ranked at 1st position among the list of top UPSC Coaching Institutes in India”. Provide a copy of the study which ranked the Institute First, name of the agency which carried out the study and whether the study was published at any public platforms, website, etc.

14. The CCPA received a mail from the opposite party on 03.09.2024, in which they submitted enrolment forms of 40 students. Upon examining the submitted documents, the CCPA observed that majority of the enrolment forms did not belong to the successful candidates of UPSC CSE 2022. Out of the 40 enrolment forms, 14 did not specify the course opted for by the candidates. This raises concerns about the genuineness of the claims vis-à-vis the documents submitted by the opposite party.

15. Thereafter, an opportunity of being heard was provided to the opposite party on 20.09.2024, during which the counsel representing opposite party requested CCPA to postpone the hearing due to the unavailability of their senior counsel. Taking into account of opposite party's counsel request, the CCPA rescheduled the hearing on 27.09.2024.

16. During the above-mentioned hearing dated 20.09.2024, CCPA directed the opposite party to submit requisite documents sought via mail 14.08.2024 latest by 25.09.2024

17. The CCPA received a mail from the opposite party on 20.09.2024 in which 75 admission forms were submitted with respect to successful candidates of UPSC CSE 2022. Upon examining the submitted documents, CCPA observed that out of the 75 enrolment forms, 48 forms did not mention/specify the course opted by the candidates. This again raises concerns about the genuineness of the claims vis-à-vis the documents submitted by the opposite party.

18. Thereafter, another opportunity of hearing as mandated under the Consumer Protection Act was provided to the opposite party on 27.09.2024 wherein opposite party was represented by Ms. Satakshi Sood, Advocate who submitted the following:-

- i. The application on which the admission consent/enrolment forms were uploaded, got corrupted and the same took some time in retrieval. Further, only about 50 forms can be downloaded from the said app per day. Therefore, it will still take about 4-5 days to furnish rest of the forms.
- ii. Submitted 75 admission/enrolment forms of successful candidates with respect to UPSC CSE 2022.
- iii. Agreed that some admission/enrolment forms are not signed by the successful candidates and some admission/enrolment forms does not specify/mention the course opted by the successful candidates.
- iv. Stated that they have submitted some documents to CCPA wherein the opposite party was adjudged as Top IAS coaching institute.

19. It may be mentioned that Section- 2(28) of the Act defines “misleading advertisement” in relation to any product or service means an advertisement, which—

- i. falsely describes such product or service; or
- ii. gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or
- iii. conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or
- iv. deliberately conceals important information;

20. From a bare reading of the above provisions of the Act, it is clear that any advertisement should:-

- i. Contain truthful & honest representation of facts,
- ii. Have assertions, guarantees only when backed by underlying credible and authentic material, study etc.
- iii. Not indulge in unfair trade practice as defined in Section 2(47) of the Act. It should be free from false representation that the goods/services are of particular standard, quality [(section 2(47) (a)] and should not make false or misleading representation concerning the need for or usefulness of any goods or services [(section 2(47) (f)] of the Act with respect to unfair trade practice.
- iv. Disclose important information in such a manner that they are clear, prominent and extremely hard to miss for viewers/consumers so as to not conceal important information.

21. It may be mentioned that the Union Public Service Commission (UPSC) in its Press Release dated 23 May 2023 announced that a total of 11,35,697 candidates applied for UPSC Civil Services Examination, 2022. Opposite party’s advertisement was targeted towards a wider class of consumers (students). A total of 933 candidates were recommended by the UPSC for appointment to various Services. In respect of the advertisement where opposite party has claimed “617 selections out of 933 in UPSC CSE 2022”. The Director General (Investigation) in its investigation report dated 08.07.2024 has the following findings:

- i. All the claimed 617 candidates were enrolled for Personality test (Interview) phase of the UPSC CSE exam which is the 3rd phase of the examination and

comes after the Pre & Mains phase. It is understood that Interview Guidance Course is not a full-time program, and it comes into play only after a candidate has cleared both the Preliminary and Mains exams.

22. In view of the para 21 above, it is pertinent to note that there is no dispute regarding the business model of the opposite party's institute, which offers courses in various categories (both free and paid) and of varying durations which are designed to cater to a diverse range of job aspirants in different circumstances. The diverse category of course packages are not in conflict with the provisions of Consumer Protection Act, 2019. However, the advertisements conceals more than what it reveals to the potential students (consumers). The categorization of courses at the institute to which the 617 successful students were affiliated were not disclosed to the potential future students to whom the advertisement seeks to reach. The concealment of details has affected the capability of potential students (consumers) to make an informed choice about courses, the effect of which is violation of Consumer rights u/s 2(9) of the Act. For instance, all 617 successful candidates opted for Interview Guidance Programme which includes DAF Analysis, Important Current Issues Printed Notes, and one to one Session. These facts are important for the potential students to decide on the courses that may be suitable for them and should not have been concealed in the advertisement.

23. The above actions of opposite party are in contravention of the provisions of Consumer Protection Act 2019 particularly the 'rights of consumer' as defined in section 2(9) (ii) of the Act-'*Right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services as the case may be, so as to protect the consumer against unfair trade practices*'. The opposite party published advertisement with claims i.e. "617 selections out of 933, 7 in Top 10 AIR, 16 in Top 20 AIR, 39 in Top 50 AIR, 72 in TOP 100 AIR" and prominently used names & pictures of the successful candidates. This has the effect of consumers falsely believing that all the successful candidates so claimed by the opposite party had opted for the regular courses advertised by the opposite party.

24. The CCPA received a mail from the opposite party on 20.09.2024, in which 75 admission/enrolment forms were submitted for successful candidates of the UPSC

CSE 2022. Upon examining the documents, the CCPA observed that out of the 75 admission/enrolment forms, 48 did not specify the course opted for by the candidates, raising concerns about the genuineness of the documents submitted by the opposite party. Additionally, it is worth noting that in the document submitted by the opposite party regarding the UPSC CSE 2022 result, on page 17, Mr. Atul Nivruttirao Dhakne (AIR-737) specifically mentioned in his consent/enrolment form that his photos and name should only be used as part of the interview program. However, the opposite party used his name and photos in their advertisement and did not disclose the course he had opted for.

25. With reference to the hearing conducted on 27.09.2024, during which the counsel representing opposite party requested CCPA to grant them time to file written submission and requisite documents. The CCPA via mail dated 27.09.2024 informed the opposite party that they may submit their written submissions or documents, if any, by 03.10.2024.

26. The CCPA received a mail from the opposite party on 07.10.2024 in which majority of the admission forms were submitted with respect to successful candidates of UPSC CSE 2022. Upon examining the submitted documents, CCPA observed that out of the 617 enrolment forms, majority of them did not mention/specify the course opted by the candidates and some admission/enrolment forms are not signed by the successful candidate. This again raises concerns about the genuineness of the claims vis-à-vis the documents submitted by the opposite party. In the abovementioned mail dated 07.10.2024, opposite party made the following submission:

- i. The information with respect to course opted by successful candidates has already been published on its website, demonstrating their bona fide intent.
- ii. There is currently no regulatory framework requiring coaching institutes to adhere to specific advertisement rules. Therefore, we cannot be faulted for not adhering to non-existent regulations.
- iii. During the hearing on 27.09.2024, it was mentioned that a student gave permission to publish his name and photograph, stating he only took coaching for the interview. The specific request made by the student may have been overlooked during the advertisement process, as not all admission forms are checked before publishing. Despite this oversight,

Institute has subsequently published information about the course type and duration of each candidate on its website.

- iv. With respect to admission forms lacked student signatures and some information was missing, it is submitted the admission forms of every student as filled out by the students themselves, as recorded.
- v. Even if a form lacks a signature, submissions via email or uploads on Our Client's website are considered valid, and signatures are not insisted upon. Similarly, missing information in the forms is condoned and not required for student enrollment. While this practice may not be ideal, it is neither illegal nor unlawful.

27. It is pertinent to mention that information regarding the course opted by successful candidates is important for the consumers to know so as to enable them to make an informed choice while deciding which course and coaching institute/platform to join. The CCPA has observed that several coaching institutes used the same successful candidate's names and pictures in their advertisement while deliberately concealing important information such as course opted by them to create deception as if the successful candidates were regular classroom students of coaching institutes. Therefore, information regarding the course opted by successful candidates is vital for the consumers in order to enable them to make an informed choice while deciding which course and coaching institute/platform to enroll. The contention of the opposite party that there is no guidelines or regulation is misplaced. The Consumer Protection Act 2019 and scheme of provisions elaborately lays down the regulations and activities and, unfair trade practices it seek to curb. The defence of 'bonafide omission' is not made out by the opposite party. The opposite party has refused to share the complete details of candidates during investigation stage as well as during the multiple opportunities offered by CCPA.

28. Now, moving on to another misleading advertisement/claim, opposite party asserted the following claim i.e. "We are ranked at 1st position among the list of top UPSC Coaching Institutes in India" without providing substantial evidence to support the said claim. It is important to mention that Section 2(47) of the Consumer Protection Act, 2019 defines "unfair trade practice" i.e., a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service,

adopts any unfair method or unfair or deceptive practice including falsely represents that the services are of a particular standard, quality or grade. Opposite party utilized deceptive practices to create a perception of exceptional quality and success. Such deceptive practices mislead aspiring candidates. Claiming themselves as Ranked at 1st position among the list of top UPSC Coaching Institutes in India should have been substantiated and based on any neutral market survey carried out between similarly placed all coaching institutes or any third-party assessment which was based on transparent & known parameters/indicators for such assessment. In the present matter, neither any comparative study was done by a third party before making the above claim nor any State Agency has given any certificate to the effect that the misleading claim made by the opposite party can be considered to be a valid advertisement. Therefore, said claim i.e., "We are ranked at 1st position among the list of top UPSC Coaching Institutes in India" constitute misleading advertisement and unfair trade practice under Consumer Protection Act, 2019.

29. The CCPA after carefully considering the written submissions, the submissions made by the opposite party during the hearings and the investigation report submitted by Director General (Investigation) finds that:-

- i. The advertisement is false & misleading as it deliberately conceals important information with respect to the course opted by the said successful candidates from the coaching Institute and mislead aspirants/consumers regarding the nature and quality of the institute's services.
- ii. The opposite party has violated the provisions related to misleading advertisement of the Consumer Protection Act 2019:-
 - a. Section 2(28) (i) -Falsely describes such product or service
 - b. Section 2(28)(iv) – Deliberately conceals important information
 - c. Section 2(28)(iii) - Unfair Trade Practice
 - d. Section 2(47)- Unfair Trade Practice

30. The CCPA is empowered under Section- 21 of the Consumer Protection Act, 2019 to issue directions to the advertiser of false or misleading advertisement to discontinue or modify the advertisement and if necessary, it may, by order, impose a penalty which may extend to ten lakh rupees and for every subsequent contravention may extend to fifty lakh rupees. Further, Section 21 (7) of the above Act prescribes

that following may be regarded while determining the penalty against false or misleading advertisement:-

- a) the population and the area impacted or affected by such offence;
- b) the frequency and duration of such offence;
- c) the vulnerability of the class of persons likely to be adversely affected by such offence.

31. The opposite party provide online and offline coaching across India. The opposite party has 4.35 Lakhs subscribers on its YouTube Channel. It may be mentioned that every year approximately 11,00,000 students apply for the UPSC Civil Service exam. Therefore, the vulnerability of the class of persons likely to be adversely affected by such misleading advertisement is huge.

32. It is important to mention that as of 18.11.2024, the opposite party is still using misleading advertisement on its official website (www.vajiraoinstitute.com) using successful candidates' names and pictures of UPSC CSE 2022 while concealing important information with respect to course opted by the said successful candidates from the opposite party's Institute to mislead the consumers as a class. Therefore, CCPA after examining the evidences, investigation report and submissions during hearing, is satisfied that opposite party has engaged in Unfair Trade Practice, false or misleading advertisement as envisaged under Consumer Protection Act and is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement.

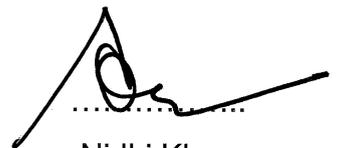
33. In view of the above, under section- 21 of the Consumer Protection Act 2019, CCPA hereby issues the following direction to the opposite party:-

- a) To discontinue the misleading advertisement from all electronic and print media whatsoever with immediate effect.
- b) Considering the nature of the violation, and give adequate consideration to the factors enumerated in section 21(7) of Act direct the opposite party to pay a penalty of ₹ 7,00,000 for publishing the name of candidate against consent, not sharing complete documents to the authority, and engaging in deliberate concealment of information as envisaged in section 2(28) of Act.

c) The CCPA invoking the powers u/s 20 of the Act, further directs that opposite party shall discontinue to publish the photo of candidate Mr. Atul Nivruttirao Dhakne (AIR-737) and desist from the unfair trade practice of publishing details of candidates against consent in future.

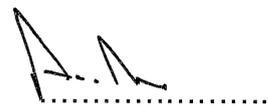
34. The opposite party shall submit the amount of penalty and a compliance report to CCPA on the above directions within 15 days from the date of this Order.

The above directions are passed in exercise of the powers conferred upon CCPA under Section 20, 21 read with Section 10 of the Consumer Protection Act 2019.



Nidhi Khare

Chief Commissioner



Anupam Mishra

Commissioner