

Central Consumer Protection Authority

Krishi Bhawan, New Delhi -110011

Case No: CCPA-2/49/2022-CCPA

In the matter of: Drishti IAS (UPSC- 2021 Results) regarding Misleading Advertisement

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Drishti IAS (UPSC-2021 Results)

- Mr. Sameer Sodhi, Advocate

Date:30.09.2024

ORDER

1. Vide the powers provided under section 19 of the Consumer Protection Act,2019,Central Consumer Protection Authority (hereinafter referred as 'CCPA') took suo motu cognizance of advertisements by Drishti IAS (UPSC- 2021 results) (hereinafter referred as 'opposite party') wherein it was observed that the opposite party allegedly published the following misleading advertisements on its official website (<https://www.drishtias.com/>)
 - a. "150+ selection in UPSC CSE 2021
 - b. "For the year 2021, Drishti IAS has produced an outstanding result with selection of more than 150 candidates in UPSC Civil Services Examination. Some of the candidates took a leap of faith and joined us in newly launched Drishti IAS Mains, Mentorship Program, while others joined us for Mains Test Series, GS Foundation Program, among others.
2. The institute provides both full time and short term courses but the advertisement published, neither mention the programs opted by various students nor demarcate between the regular full time students and other short duration students. 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 25th August 2022 to the opposite party for violation of provisions of the Consumer Protection Act, 2019 highlighting the issue of misleading advertisement by concealing important information, giving a guarantee which is likely to mislead the consumers as to the quality of its service, involving in unfair trade practice by creating urgency and making tall claims about results from the opposite party's coaching platform. An opportunity to furnish its 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 03.10.2022 was submitted, wherein the opposite party made the following submissions:-
 - a. Drishti, The vision foundation is a reputed institute since 1999 in the field of providing coaching for IAS aspirants. Throughout the journey of institute many UPSC aspirants got selected in the UPSC Civil services Examination which itself shows the quality of education provided by experienced faculty members of our institution from past many years.
 - b. The institute never had any intention to misled its students by way of advertisements. The institute provides maximum to maximum information on its website and in public domain also such information which the institute cannot provide on the public domain then in such situations the institute provide such information at its admission help desks so that the aspirant before taking the admission must satisfy itself that she/ he is taking the admission at the right place. Although the main source of advertisements for Drishti Foundation are its free video lectures which are accessible to all on YouTube, wherein we demonstrate our best teaching techniques to the viewers/ aspirants.
 - c. On website it is clearly mentioned that *"For the year 2021 Drishti IAS has produced an outstanding result with selection of more than 150 candidates in UPSC civil services examination. Some of the candidate took a leap of faith and joined us in the newly launched Drishti IAS mains mentorship program while others joined us for mains test series, GS Foundation Program among others."* We have not just mentioned the number of aspirants selected in UPSC Civil Services Examination but also provided the list of those

aspirants which contains the details such as name, rank, roll no., by giving such information on public domain we showed our truthful and honest intention which clearly shows that we are not doing or involved in any type of misleading advertisement through our website.

- d. Our institution did not charge any fees from such aspirants those who apply for the Interview Guidance Programme and Mentorship Program from any aspirants whatsoever. It is a one-day courses which includes detailed application form (DAF) analysis in online and offline mode, classes on our Drishti learning app by experts on specific areas of DAF, Mock Interview and can be applied many number of times.
 - e. Mentorship Program is open for all the candidates of Hindi Medium who have qualified Prelims and are appearing for Mains Examination of UPSC CSE. Mentorship for personality test is for all the candidates of Hindi medium who have qualified mains and are appearing for personality test of UPSC CSE.
 - f. Mentorship Program is a three month long course which includes daily answer writing practice, mock test papers, mentor sessions, 24*7 library facility, detailed application form analysis in online and offline mode, classes on our Drishti learning app by experts on specific areas of DAF, Mock Interview and can be applied many number of times.
 - g. Registration Form of rank holders as claimed to be the students of the institute.
 - h. Date of joining of each student
 - i. Fee paid along with the copies of receipt of fee.
 - j. Verified Testimonials from the concerned student.
 - k. Proof vis-à-vis questions in exams claimed to be covered by the study material of the institute.
5. Thereafter, The Central Authority vide letter dated 11.07.2023 sought for additional information to provide complete information/ documents to substantiate the claims advertised by the institute.
6. After reminder letter dated 05.10.2023, opposite party submitted its reply vide letter dated 12.10.2023 wherein they had submitted Annexure-A in PDF format which earlier not accessible by CCPA.

7. Further, it has been observed by CCPA that most of the students opted for interview guidance program, only a few for mentorship programme which is free of cost as mentioned in the earlier reply vide letter dated 03.10.2022.
8. The replies of the opposite party has been carefully considered by CCPA. None of the information cited in the reply by opposite party (reproduced at para 4 above) are evidenced in the impugned advertisements for perusal by prospective students. . Therefore, the CCPA was satisfied that there exists a prima facie case of misleading advertisement under the Consumer Protection Act, 2019.
9. In view of the above, CCPA vide letter dated 04.12.2023. Referred the matter to Director General (Investigation) for further investigation.
10. The Director General (Investigation) in its investigation report dated 02.07.2024 submitted the following:
 - i. The details of 161 candidates was provided in excel sheet.
 - ii. Out of these 161 candidates, 148 were enrolled in Interview Guidance Program (IGP), 7 were enrolled in Mains Mentorship Program, 4 were enrolled in GS Foundation Program, 1 in Optional course and details of remaining 1 candidate was not mentioned in excel sheet.
 - iii. However, enrollment forms of 146 candidates for Interview Guidance Program (IGP) and Mentorship Program were provided and 1 screenshot of whatsapp message as testimonial was provided.
 - iv. No supporting documents were provided for the rest of the claimed candidates.
 - v. This information should have been mentioned in the advertisement so that the potential aspirants and their parents/ guardian could make informed decision. Information regarding courses 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 and which course to opt for to prepare for UPSC Civil Service exams.
 - vi. The advertisements by the Drishti IAS which claimed 150+ selected candidates must have also mentioned the type/ name and duration of the course opted by the selected candidate so that potential aspirants can make well informed choice as its consumers right under Section 2(9) and section 2 (28) (ii) & (iv) of the Consumer Protection Act, 2019.

11. The Investigation Report submitted by DG (Investigation) was shared with the opposite party vide letter dated 05.08.2024 to furnish its comments.
12. The opposite party submitted its comments on DG Investigation report vide letter dated 12.08.2024 wherein it has been submitted that-
 - a. The investigation report has been carried out with mala fide manner, the claim of the opposite party with respect to 150+ students, it has been submitted time and again that the exact number is 161 via email dated 12.10.2023 and 03.10.2022. The investigation report focuses only on 148 is unknown to the opposite party.
 - b. The report is perverse in so far as it illegally dissects and segregates the candidates into two categories, one being 148 candidates who only opted for Interview Program Guidance and 13 candidates who are enrolled in other programs offered by the respondent, whereas the impugned advertisement makes no such distinction.
 - c. It is not an advertisement in the true sense of the term, but rather a heartfelt congratulatory note to the candidates who have successfully cleared the highly competitive and prestigious UPSC CSE.
 - d. It is a well-established fact that an advertisement is primarily designed with the sole purpose of promoting a product, services, or event, with the ultimate goal of attracting potential customers and increasing sales or participation. However, the impugned advertisement does not fit this description.
 - e. The message does not contain any elements that are typically associated with advertisements, such as promotional offers, discounts, or calls to action. Instead, it focuses on acknowledging the candidates' success and expressing the opposite party's pride in their accomplishments.
 - f. Findings of the investigation report are based on an incomplete and a flawed understanding of the UPSC CSE selection process and the role of coaching institutes like the respondent herein in supporting and nurturing the aspirations of candidates.
 - g. UPSC stages are designed to test the candidates' knowledge, analytical skills and overall suitability for the Civil services. The opposite party in particular, has been at the forefront of providing high quality education and guidance to UPSC CSE aspirants since its inception in 1999. The institute

offers a range of carefully designed courses and programs to cater to the specific needs of aspirants at various stages of their preparation journey.

- h. Interview is not a mere formality but is widely regarded as the most challenging and decisive stage of the examination process. It assesses not only the candidates' knowledge but also evaluates their overall personality, communication skills and suitability for the civil services. The timing of interview, taking place at a later stage in the selection process cements the significance of the interview stage as only the most meritorious candidates get invited for the interview round.
- i. To separate interview stage from the examination would be a misinterpretation of the UPSC CSE structure and a disservice to the years of hard work and dedication invested by the candidates.
- j. One of the hallmark programs of the respondent is the Interview Guidance Program of the opposite party is the interview Guidance Program (IGP) which is offered to candidates who have successfully cleared the preliminary and main stages of the UPSC CSE. Clearing the preliminary and main stages is a remarkable achievement, as over 10 lakh candidates sit for the exam, while at the end, and generally about than 3000 candidates get invited for the interview. The opposite party acknowledges this achievement by providing support to help these candidates prepare for the final and most decisive stage of the selection process-the interview.
- k. The Interview Guidance Program is offered as a scholarship to candidates who have cleared the preliminary and Main examinations. This scholarship aligns with the spirit of other esteemed UPSC scholarships, such as the IGNOU UPSC Coaching Scholarship and the Jai Bhim Mukhyamantri Pratibha Vikas Yojna by the State of Delhi, which aim to support and encourage UPSC CSE candidates and provide assistance for their coaching and training.
- l. The Interview Guidance Program offered by the opposite party goes beyond mere academic preparation. They recognizes that success in the UPSC CSE interview requires a holistic approach that encompasses personality development, effective communication skills and the ability to articulate one's thoughts clearly and confidently.

- m. The program includes rigorous mock interviews conducted by experienced faculty and expert members who have a deep understanding of the UPSC interview panel's expectations.
- n. It is crucial to emphasize that whether or not a candidate paid a fee for a program offered by the opposite party, specifically the Interview Guidance Program, does not define their identity as a candidate. Any individual actively preparing for the UPSC CSE is rightfully considered a candidate, regardless of their financial situation. Whether or not a candidate pays for the Interview Guidance Program is immaterial as long as the candidate has actually opted to take the course. It would be wrong to assume that only those who pay or are subscribed to the opposite party's prelims/ main course can be considered as students of the respondent's coaching institute.
- o. In addition to mock interviews, the Interview Guidance Program also focuses on developing candidates' soft skills, such as effective communication, body language, and confidence building. These skills are essential for making a positive impression on the interview panel and demonstrating one's suitability for the Civil Services.
- p. The Congratulatory message does not fall under the purview of the section 2(9) as it does not advertise or promote any specific goods, products or services. The opposite party has been transparent about the nature of the assistance provided to the successful candidates. The impugned advertisement clearly states that the candidates joined Main Test Series, GS Foundation Program.
- q. There is no statutory provision specifically governing coaching institutes that obligates them to disclose comprehensive details pertaining to the candidates enrolled in their programs. This includes the absence of any legal mandate requiring coaching institutes to disclose information such as the specific courses opted for by each candidate, the fees paid by the candidate for the said course, if any, and whether or not the candidate had received assistance from the institute prior to enrolling in a particular program, such as the Interview Guidance Programme offered by the opposite party.
- r. The impugned advertisement does not violate any of the provisions under Section 2(28) of the Consumer Protection Act, 2019. The advertisement

does not give any false guarantee or misled the consumers/ candidates as to the nature, substance, quantity or quality of the services provided by the opposite party.

- s. The content of advertisement is limited to a factual statement that “150+ candidates of Drishti IAS” have been selected in the UPSC CSE 2021. This statement is a truthful representation of the success achieved by Drishti IAS’s candidates in the specified examination cycle. The advertisement does not make any promises, guarantees or assurances about the outcomes or results that potential aspirants may achieve by enrolling in programs offered by the respondent.

13. Thereafter, an opportunity of being heard was provided to the opposite party on 12.08.2024 and during the course of hearing The Central Authority sought for some additional clarification from the institute which are stated hereunder-

- a. The Central Authority requested details regarding the following rank holders, specifically questioning why the date of the mock Interviews, Admission Form and mock Interview records do not align either in sequence of events or impossible dates
 - (i) Vaibhav Rawat
 - (ii) Vidyasagar
 - (iii) Vipin Dubey
 - (iv) Ishan Soni
 - (v) Kislay Sisodia
 - (vi) Parul Yadav
- b. The opposite party was further requested to submit the details related to clause 3 of the terms and conditions in their admission form, explaining why the institute should be excluded from the scope of section 2 (46) read with Sec 2 (47) of the Consumer Protection Act, 2019.
- c. The opposite party was directed to provide the information regarding the 15 students which were missing from the details of 161 students.

14. Thereafter, vide email dated 02.09.2024 submitted its reply to the email dated 14.08.2024 which are as follows-

- a. Vaibhav Rawat- The dates of mock interview, admission form, and mock interview record are all consistent and match the information provided by the opposite party. The date mentioned for the mock interview and the admission form is 12.04.2022 and the date for UPSC CSE interview is 11.05.2022.
- b. Vidyasagar- The dates of mock interview, admission form, and mock interview record are all consistent and match the information provided by the opposite party. The date mentioned for the mock interview and the admission form is 03.04.2022 and the date for UPSC CSE interview is 12.04.2022.
- c. Vipin Dubey- Vipin Dubey enrolled in multiple courses offered by the opposite party. The date of joining of the first course is 11.04.2021, while the mock interview and its record date is 22.04.2022 and the date for UPSC CSE interview is 27.04.2022.
- d. Ishan Soni- Interview Guidance Program + Magazine- The dates of the mock interview, admission form, and mock interview record for Ishan Soni are all consistent and match the information provided by the opposite party. The date mentioned is 20.04.2022 for all three records and the date for UPSC CSE interview is 12.05.2022.
- e. Kislay Sisodia- The dates of the mock interview, admission form, and mock interview record for Kislay Sisodia are all consistent and match the information provided by the opposite party. The date mentioned is 02.05.2022 for all three records and the date for UPSC CSE interview is 10.05.2022.
- f. Parul Yadav- Upon careful examination of the admission form, mock interview record, and mock interview video link for Parul Yadav, the respondent acknowledges that there appears to be a discrepancy in date mentioned in the admission form. The admission form incorrectly states the date of the mock interview as 30.04.2022., whereas the actual date of the mock interview was 30.03.2022. Parul Yadav's mock interview was indeed conducted on 30.03.2022 and the candidate's UPSC CSE interview was on 05.04.2022. Moreover, the opposite party has taken prompt action to seek clarification directly from the candidate regarding this discrepancy. In response to the opposite party inquiry, Parul Yadav has provided a clear and unambiguous statement confirming that her mock interview at Drishti

IAS was conducted on 30.03.2022 and that the date mentioned in the admission form was an inadvertent mistake on her part.

- g. Clause 3 mentioned on Terms & Conditions in the admission Form does not constitute unfair contract as the clause does not cause a significant change in the rights of the consumer or impose any unreasonable charge, obligation, or condition that puts the candidate at disadvantage. The use of photographs and video recordings for advertisement and promotional purposes is a standard practice across industry and does not adversely affect the rights or interests of the candidates.
- h. With regards to submission of information of remaining 15 students, the opposite party submits that the basement of its premises was sealed by the municipal corporation of Delhi, Karol Bagh Zone. The said basement contained critical documents, computers and files that are essential for the opposite party's daily operations and for responding to the queries raised by the Hon'ble Authority. The opposite party made a detailed representation dated 21.08.2024 to Deputy Commissioner, Karol Bagh Zone, highlighting the urgency but no response has been received.
- i. Opposite party able to provide supporting documents for 5 out of 15 candidates including the App/ Website portal backend screenshots, admission forms etc.

15. Further, an opportunity of being heard was provided to the opposite party on 05.09.2024 via mail dated 02.09.2024, for which the counsel representing opposite party requested CCPA to postpone the hearing via mail dated 03.09.2024 due to the unavailability of their counsel Mr. Sumeer Sodhi. Taking into account of opposite party's request, the CCPA rescheduled the hearing on 18.09.2024.

16. On 18.09.2024, opposite party participated in the hearing wherein opposite party represented by Mr. Sumeer Sodhi (Advocate) orally submitted the following: -

- (i) Online registration dates of five students have been shared with the Central Authority.
- (ii) There was over writing on the forms by many candidates.

- (iii) Provided meta data which cannot be tampered and the data which can show when was the interview got recorded by the opposite party and it also provide the duration of the interview as well.
- (iv) Any video of the candidate could be downloaded and then the time of the interview could be verified accordingly.
- (v) List of all students have been annexed in the letter dated 02.09.2024. along with the mock interview link.
- (vi) The existing definition of advertisement does not restrict the opposite party in any manner, the advertisement is only a congratulatory note and not the advertisement for their courses.
- (vii) An advertisement will be only considered when the opposite party is inviting the students for various courses.
- (viii) Non-existence of guidelines regarding the Coaching Institutes.
- (ix) The act defines advertisement and the opposite party abiding by it.

17. Section- 2(28) of the Consumer protection Act, 2019 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;

18. From a bare reading of the above provisions of the Act, 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 the important information in such a manner that they are clear, prominent, and extremely hard to miss for viewers/consumers to not conceal important information.
19. The categorization of courses at the institute to which the 150+ successful students were affiliated were not disclosed to the potential future students to whom the advertisement seeks to reach. The concealment of details has impacted the capability of potential students (consumers) to make an informed choice about courses.
20. The actions of the 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, to protect the consumer against unfair trade practices.* The opposite party published advertisement claiming "150+ selections in UPSC CSE 2021" and prominently used names & pictures of the successful candidates without disclosing the courses opted by them. 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 of the opposite party. Therefore, information regarding the course opted by successful candidates is important for the consumers to know to enable them to make an informed choice while deciding which course and coaching institute/platform to join. The opposite party concealing important information with respect to course opted by the said successful candidates from the opposite party's coaching platform to mislead the consumers as a class.
21. The opposite party, while publishing the advertisement, did not disclose the courses opted by the candidates, the advertisement has violated the consumer's right to be informed [(Section 2 (9) (ii)] to protect himself against unfair trade practice. The submission of the opposite party highlighting the importance of preliminary and Mains stage of the exam is of no help for the opposite party. The candidates opting for the IGP has reached the interview stage on their own hard work. The submissions gives an impression that the opposite party seeks to steal the credit of the hard work of those candidates as

the opposite party had not role to play. The 10 Lakh candidates (figure as per the opposite party) that appear for the preliminary stage of the Civil Services are the target of the opposite party. By withholding the courses opted by the successful candidates, the opposite party has concealed information which is detrimental to the rights and interest of the prospective students (consumers).

22. 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) comes to the following conclusions: -

- 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 platform and mislead aspirants/consumers regarding the nature and quality of the institute's services.
- ii. The submission of the opposite party that "*There is no statutory provision specifically governing coaching institutes that obligates them to disclose comprehensive details*" (para 12q) displays utter disregard for the provisions under section 2(28) of misleading advertisement in the statute.
- iii. There are glaring inconsistencies in the forms submitted by the opposite party by the candidates which the opposite party failed to corroborate further, for reasons of basement being sealed by police.
- iv. 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

23. 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.
- d) Gross revenue from sales effected by virtue of such offence.

24. The opposite party has 6 centers all over India and providing various online programs across India. Therefore, the vulnerability of the class of persons likely to be adversely affected by such misleading advertisement is huge.

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

- a) To discontinue the impugned advertisements from all electronic and print media whatsoever with immediate effect.
- b) In light of the findings of the CPPA regarding the violations and opposite party's submissions, it is necessary to levy penalty to serve the purpose of statute. Considering the factors enumerated in section of 21 (7) of the consumer protection Act 2019, Opposite party shall pay a penalty of ₹ 3 Lakhs for publishing false and misleading advertisement claims.
- c) 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.

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



Nidhi Khare

Chief Commissioner



Anupam Mishra

Commissioner