

Central Consumer Protection Authority

Krishi Bhawan, New Delhi - 110001

Case No: CCPA-2/47/2023-CCPA

In the matter of: Misleading advertisement and unfair trade practice by Next IAS (Made Easy Learnings Pvt. Ltd.) with respect to results of the UPSC Civil Services Examination, 2021.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Next IAS (Made Easy Learnings Pvt. Ltd.):-

1. Mr. Balendra Singh, Managing Director, Next IAS
2. Mr. Bhawani Singh, Joint Director, Next IAS

Date: 07.09.2026

ORDER

1. This is a *suo-moto* case taken up by the Central Consumer Protection Authority (hereinafter referred to as 'CCPA' or 'the Authority') against Next IAS [Made Easy Learnings Pvt. Ltd.] (hereinafter referred to as 'the opposite party') with regard to alleged misleading advertisements published on its official website (www.nextias.com). The following claims were made in the impugned advertisement:-

- i. *"4 in Top 10"*
- ii. *"9 in Top 20"*
- iii. *"45 in Top 100"*
- iv. *"Total 290 selections out of 685"*
- v. *"42% of Total Selection"*

2. The Central Consumer Protection Authority has been established under Section 10 of the Consumer Protection Act, 2019 (hereinafter referred to as 'the Act') to regulate matters relating to violation of consumer rights, unfair trade practices and false or misleading advertisements prejudicial to the interest of the public and consumers and to promote, protect and enforce the rights of consumers as a class. Section 18(1) of the Act provides that the Central Authority shall ensure that no false or misleading advertisement is made of any goods or services, prevent unfair trade practices and ensure that no person engages in unfair trade practices.

3. Taking cognizance of the aforesaid advertisement, the CCPA, in exercise of powers conferred under Section 19 of the Act, conducted a preliminary inquiry to examine the genuineness of the claims made therein. During the preliminary inquiry, it was observed that the opposite party prominently displayed the names and photographs of successful candidates and simultaneously advertised various courses offered by it on its official website, namely "First Step - NCERT Based Course for IAS", "GSPM Foundation Course for CSE 2023", "GS+ CSAT Foundation Course for CSE 2023" and "Mains Advance Course". However, the specific course opted by the said successful candidates in the UPSC Civil Services Examination, 2021 was not disclosed in the impugned advertisement, nor was any material available to substantiate the claims made therein.

4. Accordingly, the CCPA issued a notice dated 25.08.2022 to the opposite party with respect to violation of the provisions of the Act on account of misleading advertisement by concealment of important information, namely, the specific course opted by the successful candidates. The opposite party was granted an opportunity to furnish its response within 15 days of issuance of the notice, along with the following documents, to substantiate its claims:-

- i. Registration forms of the rank holders claimed to be students of the opposite party.
- ii. Date of joining of each such student.
- iii. Duration of the course attended by such student.
- iv. Fee paid, along with copies of receipts.
- v. Student ID.
- vi. Verified testimonials from the students concerned.

5. In response to the notice, the opposite party filed its reply dated 31.08.2022, wherein it submitted that:-

- i. It is an institution of about five years' standing, whose founder had already established one of India's leading institutions for competitive examination preparation, namely 'MADE EASY', with over 20 years' experience;
- ii. During the COVID-19 pandemic, it had offered its courses, test series and interview guidance at a nominal cost in most cases at ₹1 with the objective of making its services accessible to the largest possible number of civil services aspirants;
- iii. It discloses more information about its students than other institutes and furnished the registration forms, student IDs and fee receipts of the rank holders and other students of the institute; and
- iv. The success of an institute cannot be assessed merely by the number of years of its existence, but must be assessed with reference to the experience and expertise of its management in imparting coaching for competitive examinations.

6. Upon examination of the data of 291 students furnished by the opposite party, it was found that most of the students had enrolled for the Interview Guidance Programme or short-term online courses availed only after successfully clearing the Preliminary and Main examinations on their own and that only 4 candidates had taken classroom coaching for an optional/foundation course. The opposite party had not disclosed this information in the impugned advertisement. The CCPA was, accordingly, satisfied that a *prima facie* case of misleading advertisement and unfair trade practice existed and, vide letter dated 05.07.2023, requested the Director General (Investigation) ['DG (Investigation)'] to conduct a detailed investigation into the matter.

7. The DG (Investigation), in its investigation report dated 27.10.2023, submitted that:-

- i. Upon examination of the opposite party's reply dated 31.08.2022, it was noted that certain material particulars were missing therefrom and the opposite party was accordingly called upon, vide letter dated 01.09.2023, to furnish registration forms, dates of joining, course duration, fee receipts, student identification and verified testimonials of the claimed rank holders, to which the opposite party responded vide e-mails dated 15.09.2023 and 26.10.2023;

- ii. Against the claim of 290 selections in UPSC CSE 2021, the opposite party had furnished data of 291 students;
 - iii. Only 4 out of the 291 candidates had taken classroom coaching for an optional/foundation course, while the majority had enrolled for the Interview Guidance Programme or short-term online courses; the two candidates who had completed offline courses AIR-102 (Mr. Prakhar Chandrakar) and AIR-105 (Mr. Sanket Kumar) had done so in FY 2019-20 and FY 2018-19 respectively, whereas the selection was claimed for UPSC CSE 2021, which amounted to a misrepresentation of facts;
 - iv. The majority of the candidates had joined the Interview Guidance Programme, which is availed only after a candidate clears the Preliminary and Main examinations and is not a full-time classroom programme;
 - v. The opposite party had taken undue credit by advertising candidates who had attended its classroom programme in 2018-19 and 2019-20 as successful candidates of UPSC CSE 2021-22, with the sole purpose of promoting the institute; and
 - vi. The claims made by the opposite party were unsubstantiated and were likely to mislead unsuspecting aspirants.
8. The investigation report of the DG (Investigation) was shared with the opposite party vide letter dated 02.11.2023 for its comments.
9. The opposite party filed its reply dated 06.11.2023, wherein it submitted that:-
- i. The FY 2020-21 and 2021-22 were significantly affected by the COVID-19 pandemic, on account of which it had offered offline, online and blended courses in compliance with COVID protocols and that the DG (Investigation) had failed to account for these hardships;
 - ii. The DG (Investigation) had proceeded on the erroneous premise that the Interview/Personality Test is not an important stage of UPSC CSE, whereas it carries a maximum of 275 marks and is the final stage of the examination;
 - iii. A significant number of candidates join its Interview Guidance Programme, which is a comprehensive course comprising classroom lectures on current affairs, support in preparation of the Detailed Application Form, home-state issues and hobbies, mock interviews with feedback and guidance from ex-civil servants and domain experts and denied that it is a short-duration course; and

- iv. Two of its rank holders, Mr. Prakhar Chandrakar (AIR-102) and Mr. Sanket Kumar (AIR-105), who had attended courses in FY 2019-20 and FY 2018-19 respectively, had also joined new courses in FY 2021-22 for UPSC CSE 2021.
10. Thereafter, an opportunity of hearing was afforded to the opposite party on 20.11.2023. Mr. Balendra Singh, Managing Director and Mr. Bhawani Singh, Joint Director, appeared on behalf of the opposite party and submitted that:-
- i. The syllabus and pattern of examination differ across all three stages of UPSC CSE, namely, Preliminary, Main and Personality Test;
 - ii. All the students claimed in the advertisement were enrolled with the opposite party for UPSC CSE preparation;
 - iii. Students repose faith in the opposite party for quality education and content for their Main and interview preparation; and
 - iv. The opposite party had no intention to mislead students and had disclosed the course opted by the successful candidates through a hyperlink; owing to limited space on the landing page, it had prioritized display of its courses and other information over disclosure of course-wise details.
11. Thereafter, the opposite party filed a further reply dated 30.11.2023, wherein it submitted that:-
- i. It had disclosed course-wise details of the UPSC CSE 2021 rank holders in the impugned advertisement;
 - ii. With a purely informative intent, it had compiled the course-wise results of its students in UPSC CSE 2021; its website developer had designed a flip-image display for the photographs and names of the rank holders so as to give the page a more appealing look and a PDF document containing the course-wise details of all rank holders had also been prepared and uploaded at a specified URL;
 - iii. The impugned advertisement carried course-wise information at two prominent locations, namely, (a) the PDF containing complete results with course-wise details of each rank holder and (b) alongside every photograph of a rank holder;
 - iv. 73 of its students had attended two or more courses, though only basic/primary information regarding a single course had been furnished for such students and, therefore, there was no intent to mislead;

- v. The intent, manner and overall storyline of an advertisement are relevant in assessing its effect and some latitude ought to be extended to an advertiser in this regard;
 - vi. It had obtained the consent of every UPSC CSE 2021 rank holder for use of their photographs in its advertising, as reflected in the terms and conditions accepted by students at the time of enrolment; and
 - vii. Its Interview Guidance Programme is valuable to a large number of candidates appearing for the Interview/Personality Test and it would be unjust to treat its various courses, tailored to different stages of the examination, as being of unequal importance.
12. Pursuant to the hearing held on 20.11.2023, the opposite party submitted additional documents in support of its case. Since the initial investigation report submitted by the DG (Investigation) did not examine this additional material, the CCPA considered it necessary to refer the matter for further investigation before arriving at a final conclusion. Accordingly, on 02.02.2024, the CCPA requested the DG (Investigation) to conduct a further investigation into the matter, having regard to the additional documents furnished by the opposite party.
13. The DG (Investigation), in its investigation report dated 08.08.2024, submitted that:-
- i. Pursuant to the Investigation Wing's e-mail dated 27.06.2024 seeking documents to substantiate the opposite party's claims, to which no response was received and a subsequent reminder dated 08.07.2024, the opposite party responded vide e-mail dated 12.07.2024, furnishing, as Annexure-1, evidence on its rank holders in UPSC CSE 2021, course-wise details as uploaded on its website, its results (name-wise highlighted), screenshots of the course details opening on hovering the cursor, the banner gallery, the PDF link and PDF document containing course-wise details, evidence of relevant YouTube videos, evidence of candidates enrolled in two or more courses and evidence of fee relaxation granted to COVID-affected students and under its scholarship test and as Annexure-2, copies of its earlier replies dated 15.09.2023, 06.11.2023 and 30.11.2023;
 - ii. The opposite party had furnished a list of 290 candidates selected in UPSC CSE 2021, with the following course-wise break-up:
 - (a) 207 candidates enrolled in the Interview Guidance Programme (IGP);
 - (b) 42 in the Essay Course;
 - (c) 19 in the GS Mains Course (advance/test series/answer writing);

- (d) 14 in the Optional Course (classes/test series);
- (e) 5 in the Prelims Test Series Course;
- (f) 2 in the GS Pre+Mains Foundation Course; and (g) 1 in the CSAT Course;
- iii. This information ought to have been disclosed in the impugned advertisement, so that potential aspirants and their parents/guardians could make an informed decision;
- iv. Section 2(28) of the Act defines 'misleading advertisement', in relation to any product or service, as an advertisement which, *inter alia*, deliberately conceals important information or is likely to mislead consumers as to the nature, substance, quantity or quality of the product or service;
- v. Several coaching institutes have been found to prominently feature the same successful candidates' names, photographs and videos in their advertisements while deliberately concealing the specific course opted by such candidates, thereby misleading consumers into believing that the said candidates had taken a paid classroom course at the concerned institute;
- vi. In the present case, the impugned advertisement did not disclose the specific course opted by, or the duration of the course attended by, the selected candidates, which is misleading to prospective aspirants;
- vii. Subsequent to issuance of the notice, the opposite party had modified its advertisement and was, as of the date of the investigation report, displaying the course details along with the photograph and rank of the candidate, as evidenced by screenshots annexed to the investigation report;
- viii. UPSC CSE comprises three stages, namely, Preliminary, Main and Interview and a candidate is eligible to appear for the Interview only after clearing the first two stages;
- ix. 207 out of the 290 claimed candidates had cleared the Preliminary and Main stages of UPSC CSE 2021 on their own and had joined only the IGP course thereafter. The opposite party had deliberately concealed this information from consumers; and
- x. The impugned advertisement ought to have disclosed the type/name and duration of the course opted by the selected candidates, so as to enable prospective aspirants to make an informed choice, as is their right under Section 2(9) of the Act; the failure to do so amounted to a potential violation of Section 2(9) and Section 2(28) (ii) and (iv) of the Act.

14. The investigation report of the DG (Investigation) was shared with the opposite party vide letter dated 04.10.2024 for its comments.

15. The opposite party filed comments dated 10.10.2024 on the investigation report, wherein it submitted that:-

- i. Its earlier replies dated 15.09.2023, 06.11.2023, 30.11.2023 and 12.07.2024 (the last addressed to the Additional Director General, Investigation Wing) be treated as forming part of the present reply and that it denied all adverse findings recorded against it in the investigation report as unsubstantiated;
- ii. It relied upon the order dated 03.09.2024 of the Hon'ble High Court of Delhi in W.P.(C) 12017/2024 [Made Easy Learnings Pvt. Ltd. (Trading as Next IAS) v. Central Consumer Protection Authority & Ors.] and submitted that the CCPA was required to reach its satisfaction under Section 21 of the Act through a "holistic and deliberative process" addressing all questions and concerns raised by it, founded on a "reasoned evaluation of the facts, findings and arguments presented" and not arrived at in an arbitrary or superficial manner;
- iii. No order recording the CCPA's prima facie satisfaction under Section 19 of the Act, read with Regulation 3 of the Central Consumer Protection Authority (Submission of Inquiry or Investigation by the Investigation Wing) Regulations, 2021, had been communicated to it and that its complete replies and evidence had not, in its belief, been forwarded to the Investigation Wing in entirety, contrary to Regulation 7(b) of the said Regulations;
- iv. The course-wise details of the successful candidates were disclosed in the impugned advertisement, both through the PDF document accessible via the 'View Complete Results' button and through the flip-image feature activated on hovering the cursor over a candidate's photograph, such that there was no concealment of information;
- v. The impugned advertisement, having been published on its own website in the ordinary course of business and containing no offer of any product, service or course, was not, in the strict sense, an 'advertisement' and that, in any event, Section 21(6) of the Act does not permit imposition of penalty on a publisher who publishes material in the ordinary course of business;
- vi. It denied that a significant proportion of its successful candidates had derived no benefit from its coaching and reiterated that the Interview/Personality Test carries a maximum

- of 275 marks and is a crucial stage of the examination, such that its Interview Guidance Programme, however qualitative and comprehensive, ought not to be discounted;
- vii. The investigation had not undertaken any survey or study of prevailing advertising standards in the civil services coaching segment and had adopted an “exceptional, unusual and abstruse” meaning of the impugned advertisement rather than assessing it, as required by settled law, as per its general, usual and common meaning from the standpoint of a reasonable and observant viewer, taken in its entirety;
 - viii. It relied on judicial precedents, including *Dabur India Ltd. v. Colortek Meghalaya Pvt. Ltd.* (Delhi High Court, 2010), *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.* (Supreme Court, 1995), *Reckitt Benckiser (India) Pvt. Ltd. v. Wipro Enterprises (P) Limited* (Delhi High Court, 2023) and *Lakhanpal National Ltd. v. M.R.T.P. Commission* (Supreme Court, 1989), for the propositions that an advertisement must be judged in its entirety and not frame-by-frame, that truthful representation of facts cannot be misleading and that commercial speech is protected under Article 19(1)(a) of the Constitution;
 - ix. It alleged selective and mala fide targeting, contending that it was among the most compliant institutes in the segment on disclosure of course-wise details, while competing institutes, including M/s Vajiram & Ravi, had, to its knowledge and belief, not disclosed such details at all and yet remained uninvestigated;
 - x. Issuance of press releases and media coverage of the notice prior to it being afforded an effective opportunity of defence and the manner of selection of the opposite party for investigation, violated the principles of natural justice and its rights under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution; and
 - xi. It prayed that the CCPA re-examine the matter in light of the directions of the Hon’ble High Court of Delhi, drop the proceedings under Section 21 of the Act as unsustainable, or, in the alternative, order a fresh and fair investigation with an effective opportunity of defence and club the present proceedings with the proceedings relating to UPSC CSE 2022 results (Case No. CCPA-2/68/2023-CCPA).

16. Thereafter, an opportunity of hearing was afforded to the opposite party on 16.10.2024. Mr. Balendra Singh and Mr. Bhawani Singh, appearing on behalf of the opposite party, submitted that:-

- i. The impugned advertisement is interactive and clicking on 'View Complete Results' leads to a page where clicking on a candidate's photograph reveals the course opted by such candidate;
- ii. The course-wise details were available on the date the notice dated 25.08.2022 was issued and this could be substantiated on affidavit;
- iii. The front page of the website has limited space for information;
- iv. It admitted that the course opted by the successful candidates was not displayed upfront in the impugned advertisement;
- v. It had acted fairly within the coaching industry and had no intent to mislead aspirants, its intention being to provide basic rather than exhaustive details; and
- vi. The CCPA's Guidelines for Prevention of Misleading Advertisement in Coaching Sector, 2024 ('the Coaching Sector Guidelines') were notified on 13.11.2024 and ought to apply prospectively and not to the notice dated 25.08.2022 which preceded their issuance; it further submitted that it was among the first in the coaching industry to disclose the course opted by successful candidates, albeit through additional steps/clicks.

17. Pursuant to the hearing dated 16.10.2024, the CCPA directed the opposite party to file its written submissions.

18. The opposite party filed a supplementary reply dated 31.10.2024, together with an affidavit of even date affirming disclosure of course-wise details in the impugned advertisement, wherein it submitted that:-

- i. The impugned advertisement was non-misleading, valid and non-actionable, being, in its submission, one of the most law-compliant advertisements in the UPSC CSE coaching segment at the relevant time, since it had proactively disclosed course-wise details of successful candidates when almost no other institute in the segment did so; it contended that, as a matter of law, action ought first to lie against the most non-compliant advertisers in a segment;
- ii. Its intent was to convey only basic information, without any exaggerated claim and that it had, in fact, under-claimed rather than over-claimed its results, since 73 of its successful candidates had attended two or more courses, yet only one course was reflected against each such candidate in the impugned advertisement;

- iii. The PDF document accessible via the ‘View Complete Results’ button, together with the flip-image feature activated on hovering the cursor over a candidate’s photograph, made the course-wise details easily accessible and difficult to miss, such that, applying the principle of proportionality and having regard to the dominant effect and entirety of the advertisement, it was non-misleading and valid;
- iv. An average civil services aspirant, being reasonably aware and observant, would know that the results advertised pertained to different courses and that its official website contained substantially all relevant information necessary for consumer awareness;
- v. There existed no standard format, guidelines or established practice for publication of such advertisements in the civil services coaching segment at the relevant time and that it had no knowledge of and there was no, falsity in the impugned advertisement;
- vi. The investigation had proceeded on an “exceptional, unusual and obtrusive” meaning of the advertisement rather than its general, usual and common meaning as understood by a reasonable consumer and furnished a comparative tabulation contrasting the two in support of this contention;
- vii. It reiterated its grievance of selective and mala fide targeting, furnishing a comparative tabulation contrasting its own compliance with that of M/s Vajiram & Ravi a competing institute operating in the same locality which, to its knowledge and belief, had not disclosed course-wise details of its successful candidates for either UPSC CSE 2021 or UPSC CSE 2022 and contended that such disparate treatment violated Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution and the principles of natural justice; a similar grievance was raised in respect of M/s Shubhra Ranjan Institute;
- viii. It alleged pre-judged bias on the part of the investigation, particularly against its Interview Guidance Programme and contended that continuation of proceedings under Section 21 of the Act, on the basis of an investigation report founded on the premise that course details were not disclosed, would amount to a denial of the structured process of defence contemplated under the Act, rendering the investigation report infructuous;
- ix. It relied upon the observations of the Hon’ble High Court of Delhi in its order dated 03.09.2024 in W.P.(C) 12017/2024, to the effect that the CCPA’s satisfaction under Section 21 of the Act must be founded on a reasoned evaluation of the facts, findings and arguments presented and that the statutory framework contemplates a structured, deliberative process safeguarding the rights of the affected party; and

- x. It prayed that the CCPA: drop the proceedings under Section 21 of the Act as unsustainable in law; take corrective steps in respect of the lapses alleged in the investigation report; club the present proceedings with those relating to UPSC CSE 2021 (F. No. J-25/90/2022-CCPA) and UPSC CSE 2022 results (Case No. CCPA/2/68/2023-CCPA); genuinely consider the prevailing commercial advertising standards in the segment; and afford it a further opportunity for written and oral submissions in case any doubt remained.

19. Thereafter, an opportunity of hearing was afforded to the opposite party on 10.12.2024. Mr. Balendra Singh and Mr. Bhawani Singh, appearing on behalf of the opposite party, submitted that:-

- i. The UPSC CSE 2021 result was declared on 31.05.2022 and course-wise details were shared with a third-party vendor on 03.06.2022 for upload on its website;
- ii. It had no intention to mislead consumers;
- iii. It has been following the Coaching Sector Guidelines since their notification on 13.11.2024;
- iv. It had disclosed course-wise details of its rank holders in UPSC CSE 2021 at a time when almost no other institute in the sector did so;
- v. Its Interview Guidance Programme is priced at ₹1,000 and is provided free of cost on a student's request;
- vi. The impugned advertisement is one of several rotating informative banners on the landing page of its website;
- vii. It would comply with the suggestions and directions of the CCPA;
- viii. No institute in the coaching sector discloses the specific courses taken by successful candidates and it is understood by consumers that featured candidates would have taken more than one course; and
- ix. It admitted that the course opted by successful candidates is an important piece of information and submitted that it was the first in the industry to disclose the same, albeit through layered access.

20. Pursuant to the hearing dated 10.12.2024, the CCPA directed the opposite party to file its written submissions.

21. The opposite party filed a further supplementary reply dated 13.12.2024, together with an affidavit dated 12.12.2024 affirming that the course-wise details of successful candidates were disclosed in the impugned advertisement in a manner hard to miss wherein it submitted the following:-

- i. It had proactively disclosed course-wise details of successful candidates in the impugned advertisement, evidenced, inter alia, by internal e-mail correspondence dated 3rd and 6th June, 2022 regarding uploading of the results PDF and corresponding website log records showing the date of upload;
- ii. The flip-image feature, activated merely on hovering the cursor over a candidate's photograph, reveals course-wise details of such candidate and furnished screenshots in support thereof;
- iii. It had similarly and proactively disclosed course-wise details of its successful candidates in UPSC CSE 2020, prior to notification of the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, as evidenced by e-mail correspondence dated 1st November, 2021 and corresponding website log records;
- iv. Its Interview Guidance Programme, of about two-and-a-half to three-and-a-half months' duration, comprises classroom lectures on current affairs, support for the Detailed Application Form, home-state issues and hobbies and mock interviews with feedback and, unlike similar programmes offered by most other institutes, is a paid course;
- v. 107 of the 207 candidates enrolled in its Interview Guidance Programme had paid the prescribed fee of ₹1,000, with the remainder granted fee relaxation pursuant to its fee relaxation policy and a similar pattern of fee payment prevailed in its other courses; and
- vi. Taking the impugned advertisement in its entirety, it is non-misleading and valid and it prayed that the CCPA drop the proceedings under Section 21 of the Act or, in the alternative, afford it a further opportunity to dispel any remaining doubt in the matter.

22. Section 2(28) of the Act defines 'misleading advertisement', in relation to any product or service, as 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.

23. It follows from the above that an advertisement is required to (i) contain a truthful and honest representation of facts; (ii) be free of assertions or guarantees unless backed by credible and authentic supporting material; (iii) refrain from unfair trade practices within the meaning of Section 2(47) of the Act, including false representations as to the standard, quality or usefulness of the service; and (iv) disclose important information clearly and prominently, so that it is not lost on the consumer.

24. The opposite party's contention that the absence of specific rules or guidelines defining "important information" exempts it from liability is untenable. What constitutes important information in an advertisement must be assessed from the consumer's standpoint. Section 2(28) of the Act is a self-contained definition and the Act does not require sector-specific guidelines for its provisions to apply; the CCPA's mandate under the Act is sufficient to regulate matters relating to misleading advertisements, irrespective of the presence of sector guidelines. Accepting the opposite party's contention would necessarily imply that the CCPA is disabled from taking any action against misleading advertisements or unfair trade practices in any sector unless and until sector-specific guidelines have been separately notified for that sector, notwithstanding the plenary powers conferred upon it under Sections 18, 19, 20 and 21 of the Act. Such a construction would render the substantive provisions of the Act, including the definition of "misleading advertisement" under Section 2(28), futile and contingent upon subordinate guidelines that Legislature never intended as a precondition for their operation. This is untenable, since sector-specific guidelines, where notified, operate only to supplement and particularize the general provisions of the Act for the sector concerned and their absence cannot be read as a bar on the exercise of the CCPA's statutory powers, which flow directly from the Act itself.

25. The opposite party's contention that no order recording the CCPA's prima facie satisfaction under Section 19 of the Act was communicated to it and that its complete replies and evidence were not forwarded to the Investigation Wing in entirety contrary to Regulation 7(b) of the Central Consumer Protection Authority (Submission of Inquiry or Investigation by

the Investigation Wing) Regulations, 2021, is misconceived and without merit, for the following reasons:-

- i. Neither Section 19 of the Act nor Regulation 3 of the said Regulations mandates that the CCPA's prima facie satisfaction be recorded in a separate, standalone order communicated to the opposite party as a condition precedent to reference of the matter to the DG (Investigation). The requirement of prima facie satisfaction is an internal administrative step preceding a reference for investigation and is not akin to a quasi-judicial order under Section 21 of the Act, which alone attracts a right of communication and hearing to the affected party.
- ii. The CCPA's prima facie satisfaction and the basis therefor, is manifest on the face of the record itself: the notice dated 25.08.2022 issued to the opposite party specifically set out the impugned claims and called for its response, along with supporting documents, thereby placing the opposite party on due notice of the case it was required to meet. The subsequent letter dated 05.07.2023 requesting the DG (Investigation) to conduct a detailed investigation was issued only after due examination of the data of 291 students furnished by the opposite party, as recorded in para 6 above and reflects the CCPA's prima facie satisfaction arrived at on a reasoned basis and not mechanically or in a vacuum.
- iii. As regards the allegation that its complete replies and evidence were not forwarded to the Investigation Wing in entirety contrary to Regulation 7(b), the record demonstrates otherwise: the DG (Investigation), in its report dated 27.10.2023, has expressly taken note of and dealt with the opposite party's reply dated 31.08.2022 (para above) and in its subsequent report dated 08.08.2024, has expressly considered the opposite party's earlier replies dated 15.09.2023, 06.11.2023 and 30.11.2023, besides calling for and examining fresh material vide e-mail dated 12.07.2024 (para above). The opposite party has not identified any specific reply, document or piece of evidence furnished by it which was, in fact, withheld from the Investigation Wing and which, had it been considered, would have altered the findings recorded. A bald and unsubstantiated allegation of non-forwarding, unaccompanied by particulars of what was allegedly withheld and how it was material, cannot be a ground to impugn the investigation or the present proceedings.

26. The opposite party's contention that the impugned content, having been published on its own website in the ordinary course of business without any offer of a product, service or course, does not constitute an 'advertisement' in the strict sense and that Section 21(6) of the Act therefore bars imposition of penalty upon it as a mere publisher, is misconceived and untenable. It is important to note that the Section 2(1) of the Act defines "advertisement" to mean any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents. This definition is wide and inclusive in character and expressly encompasses publicity or representation made through a "website" as one of the specified media; it does not require that such publicity be accompanied by a formal offer of sale, a price quotation, or an express invitation to purchase a specific product, service or course.

27. The impugned content, being a visual representation of the opposite party's claimed success in UPSC CSE 2021, displayed prominently on its own commercial website alongside its own course offerings, squarely falls within the first limb of this definition, being a "visual... representation... made by means of... website". The opposite party's attempt to distinguish such content from an 'advertisement' on the ground that it was published in the "ordinary course of business" finds no support in the statutory definition, which draws no such distinction based on the manner, occasion or ordinariness of publication, but turns solely on the medium and character of the communication.

28. Further, Section 21(6) of the Act protects a person who merely publishes an advertisement in the ordinary course of business at the instance of another advertiser such as a newspaper, television channel or hoarding owner and has no role in creating, authoring or approving its content; it has no application to a case such as the present, where the opposite party is itself the originator, author and beneficiary of the impugned advertisement, published on a website owned and controlled by it and not a mere publisher acting on behalf of a third party. The plea is, therefore, rejected.

29. The opposite party's reliance on the judgments in *Dabur India Ltd. v. Colortek Meghalaya Pvt. Ltd.* (Delhi High Court, 2010), *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*, (1995) 5 SCC 139, *Reckitt Benckiser (India) Pvt. Ltd. v. Wipro Enterprises (P) Limited*

(Delhi High Court, 2023) and *Lakhanpal National Ltd. v. M.R.T.P. Commission* (Supreme Court, 1989) does not assist its case and is, in fact, self-defeating. The proposition that an advertisement must be assessed in its entirety and not frame-by-frame or in isolated fragments, is not in dispute and has been applied by the CCPA in examining the impugned advertisement as a whole, including the PDF document, the flip-image feature and the manner of presentation, before arriving at its findings herein. However, examining an advertisement in its entirety does not permit an advertiser to bury or relegate material information to a subordinate or less accessible location while prominently displaying only the favourable claims; taken in its entirety, the dominant and immediate impression created by the impugned advertisement remains one of unqualified success attributable to the opposite party's coaching, with the material information regarding the specific course opted by successful candidates being neither prominent nor proximate to the claims themselves.

30. As regards the opposite party's reliance on *Tata Press* for the proposition that commercial speech is protected under Article 19(1) (a) of the Constitution, it is relevant to note that the Hon'ble Supreme Court in *Tata Press* expressly limited the earlier decision in *Hamdard Dawakhana v. Union of India* to advertisements that are "deceptive, unfair, misleading and untruthful" and did not extend constitutional protection to such advertisements. The very decision relied upon by the opposite party, therefore, carves out misleading and untruthful commercial speech from the protection of Article 19(1) (a) and the opposite party cannot invoke *Tata Press* to claim protection for an advertisement that this Authority has found, for the reasons recorded herein, to be misleading within the meaning of Section 2(28) of the Act. This position is consistent with the earlier and equally authoritative pronouncement of the Constitution Bench in *Hamdard Dawakhana (Wakf) Lal Kuan, Delhi v. Union of India*, AIR 1960 SC 554, which held that commercial advertisements whose dominant purpose is trade and commerce do not enjoy the full protection ordinarily accorded to free speech and are subject to reasonable restriction in the interest of preventing consumer exploitation.

31. Further, the principle that concealment of material information through relegation to fine print, hyperlinks or subordinate placement constitutes an unfair trade practice has been consistently upheld by Indian courts and consumer fora, including by the Hon'ble Supreme Court in *Buddhist Mission Dental College and Hospital v. Bhupesh Khurana*, (2009) 4 SCC 484, affirming a finding of the National Consumer Disputes Redressal Commission (NCDRC)

that an educational institution's advertisement creating a false impression regarding facts material to a prospective student's decision to enroll amounted to unfair trade practice; and by the National Consumer Disputes Redressal Commission in *M.R. Ramesh v. Prakash Moped House & Ors.*, Revision Petition No. 831 of 2001, decided on 02.05.2003, holding that concealment of crucial information from prominent display amounts to an unfair trade practice. The facts of the decisions cited by the opposite party, arising in the context of comparative advertising and disparagement between competing manufacturers, are, in any event, distinguishable from the facts of the present case, which concerns concealment of material information from consumers rather than disparagement of a competitor. The precedents relied upon by the opposite party do not, therefore, detract from the findings recorded herein.

32. The opposite party's contention that issuance of press releases and media coverage of the notice, prior to it being afforded an effective opportunity of defence, violated the principles of natural justice and its rights under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution, is not borne out by the record. The CCPA, as a statutory authority discharging its functions under Section 18 of the Act to protect and enforce the rights of consumers as a class, is entitled and indeed obligated, to keep the public informed of enforcement action initiated against advertisers where consumer interest is involved. Any public communication regarding issuance of a notice or initiation of an inquiry does not, by itself, amount to a pre-judgment of the outcome or a denial of the opposite party's right to be heard, particularly where, as in the present case, the opposite party has, at every subsequent stage, been afforded full and effective opportunity to respond, including two rounds of detailed investigation, communication of both investigation reports in their entirety and multiple personal hearings culminating in written submissions and affidavits, prior to any final determination being made. The opposite party has not demonstrated that any specific finding recorded herein was influenced or predetermined by such prior communication, nor has it shown any prejudice occasioned to its defence on account thereof. In the absence of any demonstrated prejudice or bias infecting the final decision-making process, a general allegation regarding the timing or manner of public disclosure of the notice cannot, by itself, vitiate the present proceedings.

33. It is important to note that the CCPA has observed that several coaching institutes feature the same successful candidates' names and photographs in their advertisements while deliberately concealing the specific course opted by them, creating an impression that such

candidates were regular classroom students, or had taken the courses advertised alongside their photographs. Information regarding the specific course opted by a successful candidate is material to a prospective aspirant's decision to enroll and consumers are entitled to accurate and truthful information regarding the services for which they are paying.

34. The CCPA has applied the test of reasonability, from the perspective of an ordinary prudent consumer, in examining the impugned advertisement, the opposite party's responses thereto and the impact of such advertisement on consumers as a class.

35. As regards the opposite party's contention that it has been selectively targeted, it is noted that the CCPA has issued notices to approximately 70 coaching institutes for misleading advertisements, unfair trade practice and violation of consumer rights, including M/s Shubhra Ranjan Institute (on whom a penalty of ₹2,00,000 was imposed) and M/s Vajiram & Ravi (on whom a penalty of ₹7,00,000 was imposed), demonstrating that the CCPA has proceeded uniformly against all coaching institutes found to be engaged in misleading advertising, without bias or discrimination.

36. As regards the claim "Total 290 selections out of 685" in UPSC CSE 2021, the course-wise break-up of the 290 candidates, as furnished by the opposite party and set out in the investigation report, is as under:-

Opposite party's claim	Course opted by successful candidates
I. <i>"Total 290 selections out of 685" in UPSC CSE 2021</i> II. <i>"42% of Total Selection"</i>	Out of these 290 candidates:- a. 207 candidates were enrolled in the Interview Guidance Programme (IGP); b. 42 were enrolled in the Essay Course; c. 19 were enrolled in the GS Mains Course (advance/test series/answer writing); d. 14 were enrolled in the Optional Course (classes/test series); e. 5 were enrolled in the Prelims Test Series Course; f. 2 were enrolled in the GS Pre+Mains Foundation Course; and g. 1 was enrolled in the CSAT Course.

37. It is relevant to note that a candidate is required to clear all three stages of UPSC CSE, namely, Preliminary, Main and Personality Test, before being declared successful. While Preliminary is a screening stage, marks obtained in the Main examination (1750 marks) and the Personality Test (275 marks) are counted towards final selection, with the Main examination carrying substantially greater weightage than the Interview. The Interview Guidance Programme has no bearing on a candidate's performance in the Main examination, a fact which ought to have been appropriately disclosed to prospective students.

38. As per available data, approximately 10 lakh aspirants applied for UPSC CSE 2021, of whom approximately 10,500 appeared for the Main examination, 1,800 reached the Personality Test stage and 685 were finally selected indicating that roughly 1 in every 3 candidates who reached the Personality Test stage had a reasonable probability of final selection.

39. The opposite party has been found to be taking credit for the efforts of successful candidates across all stages of the examination, while deliberately concealing the specific course taken by them. As noted in the investigation report, a majority of the successful candidates had taken the Interview Guidance Programme, which comes into play only after a candidate has cleared the Preliminary and Main examinations. The opposite party's contention that course details are revealed upon hovering the cursor over a candidate's photograph does not detract from this finding, as there is no indication on the advertisement directing a viewer to do so.

40. The CCPA afforded the opposite party ample opportunity, through the investigation process, hearings and written submissions, to substantiate its claims. The claims "*4 in Top 10*", "*9 in Top 20*", "*45 in Top 100*", "*Total 290 selections out of 685*" and "*42% of Total Selection*" were presented prominently, while the specific courses opted by the successful candidates were concealed. Such concealment contravenes the provisions of the Act. The opposite party's contention that this information is accessible through external links or upon further navigation does not absolve it of its primary obligation to present material information clearly and prominently.

41. A reasonable and prudent consumer would understand the aforesaid claims to mean that the opposite party's institute had itself produced 290 selections, amounting to 42% of the total

selections, in UPSC CSE 2021. Such broad and unqualified claims create a misleading impression regarding the opposite party's services and constitute a misleading advertisement under the Act. The omission of material facts is likely to induce aspirants and their parents to enroll under a false impression regarding the opposite party's success rate.

42. Further, the fact that the success claims were displayed twice on the same page indicates that space was available to disclose the corresponding course details in like manner. The opposite party's contention that space constraints prevented such disclosure is, therefore, without merit and the selective emphasis on success figures, to the exclusion of course details, reflects an intent to mislead.

43. It is not in dispute that the opposite party offers a wide range of courses both free and paid, across various categories and durations catering to different stages of preparation. By omitting the specific courses opted by its successful candidates while prominently advertising their success, the opposite party has deprived consumers of their right under Section 2(9) (ii) of the Act, namely, the 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's contention that its target audience, being graduates, can independently discern such information is misplaced. The obligation to disclose material information upfront rests with the advertiser, regardless of the consumer's educational background. In this respect, the doctrine of "*caveat emptor*" has given way to "*caveat venditor*" under the modern consumer protection regime.

44. The opposite party's contention that the Coaching Sector Guidelines, notified on 13.11.2024, cannot be applied to conduct predating their notification, is misconceived. The notice and proceedings in the present matter are founded on the substantive provisions of the Act, which independently empower the CCPA to act against misleading advertisements and unfair trade practices irrespective of the existence of sector-specific guidelines.

45. In view of the foregoing and having regard to the written submissions of the opposite party, the submissions made during the hearings and the investigation reports submitted by the DG (Investigation), the CCPA finds that the impugned advertisement is false and misleading, inasmuch as it deliberately conceals material information regarding the specific course opted

by the successful candidates featured therein and that the opposite party has, for the purpose of promoting the sale of its services, engaged in an unfair and deceptive practice creating a misleading impression as to the efficacy of its services, thereby violating the consumer's right to be informed under Section 2(9)(ii) of the Act.

46. Accordingly, the CCPA finds that the opposite party has violated Section 2(28) of the Act, specifically:-

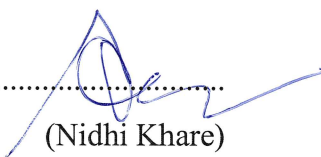
- i. Section 2(28) (iii): by an implied representation constituting an unfair trade practice; and
- ii. Section 2(28) (iv): by deliberate concealment of important information.

47. The CCPA is empowered under Section 21 of the Act to issue directions to an advertiser of a false or misleading advertisement to discontinue or modify such advertisement and, if necessary, to impose a penalty which may extend to ten lakh rupees and, for every subsequent contravention, up to fifty lakh rupees.

48. The CCPA has, however, considered whether imposition of a monetary penalty is warranted in the facts of the present case and finds that the case is distinguishable from other coaching institutes proceeded against by the CCPA for similar violations. In those cases, the concerned institutes had not disclosed the specific course opted by their successful candidates at all, anywhere in their advertisements. In the present case, the opposite party has placed on record and affirmed on affidavit dated 31.10.2024 and further affidavit dated 12.12.2024, that it had disclosed course-wise details of its successful candidates in the impugned advertisement through the PDF document accessible via the 'View Complete Results' button and through the flip-image feature activated on hovering the cursor over a candidate's photograph. While this manner of disclosure, being accessible only after an additional click or layer of navigation rather than prominently and upfront alongside the claims themselves, is insufficient to discharge the opposite party's obligation to present material information clearly and does not absolve it of the violation recorded in paras 43 and 44 above. Having regard to this distinction, the CCPA is not inclined to impose a monetary penalty on the opposite party in the present proceedings and considers it sufficient, in the facts of this case, to issue corrective directions to ensure full and prominent compliance going forward.

49. In view of the above, in exercise of powers under Sections 20 and 21 read with Section 10 of the Act, the CCPA hereby issues the following directions to the opposite party:-

- i. All claims made in the advertisement must disclose the course opted by the successful candidates prominently, on the same page and in immediate proximity to such claims.
- ii. The opposite party shall ensure that its online interface discloses such course-wise details upfront, in a clear manner, without requiring additional clicks or navigation to access such information.
- iii. The opposite party shall strictly comply with the CCPA's Guidelines for Prevention of Misleading Advertisement in Coaching Sector, 2024, in respect of all its present and future advertisements.
- iv. The opposite party shall submit a compliance report in respect of directions (i) to (iii) above within 15 days of receipt of this Order.


.....
(Nidhi Khare)
Chief Commissioner


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(Anupam Mishra)
Commissioner