<u>Central Consumer Protection Authority</u> Krishi Bhawan, New Delhi -110011

Case No: CCPA/25/2023-CCPA

In the matter of: Case against APTI PLUS Academy regarding misleading advertisement and unfair trade practice.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For APTI PLUS Academy:

- 1. Mr. Pramod Kumar Sahu, Director, APTI PLUS Academy
- 2. Ms. Mousomee Shome, Advocate

Date: 22.11.2023

ORDER

1. This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as 'CCPA') against APTI PLUS Academy (hereinafter referred as 'opposite party') wherein it was observed that the opposite party was allegedly publishing the misleading advertisements on their website (www.aptiplus.in) making the following claims-

- a. "Honoring our best! Our legacy of success continues with toppers in UPSC IAS 2022- 150 plus students from our academy have cleared UPSC 2022 exam."
- b. "Best IAS Academy in Bhubaneswar and Kolkata."
- c. "Best online and offline coaching for the UPSC IAS exam at a very affordable fee in comparison to the other best IAS coaching in India."
- d. "Subject wise best faculty for UPSC in India."
- e. "Best current affairs compilation for UPSC."
- f. "UPSC free study material of the best quality."
- g. "Officers and India's Best Professors as your personal Mentors."

2. Accordingly, 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 the preliminary inquiry report, it was found that the opposite party showcased various types of courses on its official website

(www.aptiplus.in) like One Year Pre cum Main GS Integrated Course for UPSC CSE, Two Years Foundation Course, Distance Learning Programme, Prelims Test Series, Mains Test Series and Mains Answer Writing. No information with respect to the course opted by the said successful candidates in UPSC Civil Services Exam (CSE) 2022 was mentioned in the said advertisement. Further, it was found out that no information or document was available on the website to substantiate the claim by opposite party. From the preliminary inquiry report, it was clear that prima face it was a fit case of Misleading Advertisement and Unfair Trade Practice that affected consumers as a class.

3. Therefore, the CCPA issued a notice dated 16th June 2023 to the opposite party for violation of provisions of the Consumer Protection Act, 2019 highlighting the issue of misleading advertisement by deliberately concealing important information and making highly exaggerated claims about results from the opposite party's Academy. An opportunity to furnish its response was given to the opposite party within 15 days of the issue of the Notice.

4. In response to the notice, reply dated 11.07.2023 was received and by email dated 22.08.2023 information with respect to successful candidates of the opposite party was received. In the reply following submissions were made by opposite party:-

- i. They provide coaching through various guidance& courses/programme viz Classroom Programme, Mock Test Programme & Interview Guidance Programme.
- ii. With reference to paragraphs 7, 9 and 11 of the CCPA's Notice, opposite party stated that their claims and advertisement is neither misleading and nor does it violate the consumer rights. Opposite party stated that "mere puffery within the tolerance limits of permissible law does not amount to disparagement to the market competitors or the public at large".
- iii. Opposite party stated that the consumers are intelligent enough to distinguish between truth and exaggeration and the consumers are not blindly going to believe advertisement on Academy's website.
- iv. Opposite party stated that their Academy has received the World Education Summit Awards-2018 being Best Civil Service coaching institute in Odisha and Global Education Excellence Award-2019 for being Best Civil Service Coaching in West Bengal.
- v. Opposite party stated that they provide similar faculty and content as that of other acclaimed best institutions available in India at reasonable cost that can be compared by a thorough survey.
- vi. They provide best subject wise faculty available in market after thorough screening & market review.

vii. The opposite party also provides free study material of the best faculty on another website namely <u>www.iasgyan.in</u> which is completely free except test series which is very beneficial to the users.

5. Thereafter, an opportunity of hearing as mandated under the Consumer Protection Act was provided to the opposite party on 03.10.2023 wherein opposite party was represented by Mr. Pramod Kumar Sahu, Director, APTI PLUS Academy and Ms. Mousomee Shome, Advocate. They made the following submissions: -

- i. 2 types of courses are provided by opposite party i.e., Classroom Programme and Interview Guidance Programme.
- ii. The Interview Guidance Program is provided free of cost.
- iii. Out of 150 plus selections in UPSC CSE exam 2022, 1 student took Classroom Programme, 6 took Test Series and 146 took Interview Guidance Programme.
- iv. Due to lack of space, it is not possible to write all the information with regard to selected candidates in the impugned advertisement.
- v. They had no intention to mislead the consumers.
- vi. Most of the IAS coaching institutes' advertisements do not disclose the course opted by selected candidates in the UPSC exam.

6. Recognizing the significance of ensuring adherence to the provisions of the Consumer Protection Act, 2019 and the fundamental principle of equitable and transparent resolution, an investigation by Director General (Investigation) was deemed necessary and he was requested to submit an investigation report within 15 days.

7. The Director General (Investigation) in its investigation report dated 10.11.2023 submitted the following:

- i. Opposite party submitted the following students have taken guidance from their Academy.
 - a. Garima Lohia (AIR -2)
 - b. Smriti Mishra (AIR -4)
 - c. Aniruddh Yadav (AIR-8)
 - d. Kanika Goyal (AIR- 9)
 - e. Yadav Suryabhan Achhetal (AIR-27)
 - f. Maliye Sri Pranav (AIR- 60)
 - g. Kasturi Panda (AIR-67)
- ii. It is observed that Detailed Application Form (DAF) of four candidates namely (Smriti Mishra (AIR-4), Kanika Goyal (AIR -9), Yadav Suryabhan Achhetal (AIR-27) & Maliye Sri Pranav (AIR-60) out of above mentioned seven candidates was not submitted by opposite party. Remaining 03 candidates enrolled themselves only for Mock interview guidance programme, one candidate (with AIR-08 Aniruddh Yadav) had joined the Institute in the year

2020 and successfully cleared the UPSC Civil Services Exam in the year 2022.

- iii. Opposite party claimed 150+ selections on its website along with the photograph of successful candidates whereas in reply submitted by opposite party, it contains detailed application form of 129 candidates only along with their email dated 06/07/2023 as per the google link given below. https://drive.google.com/drive/u/1/folders/1T8LIdQk3sDz1gFgHr6lINmxuLDm bWRgG
- iv. Most of rank holders showcased in the advertisement attended only Mock Interview Programme. By displaying the images of 150+ successful students on the website, the opposite party is creating an impression that all these successful candidates were regular classroom students of the opposite party's academy. It may also be noted that details of course opted by these successful candidates is also not mentioned on the website. Annexure-1
- On viewing the opposite party's website it is found that the Institute claimed V. 150+ selections in UPSC CSE 2022 whereas it has uploaded the testimonials/ feedback comment of only 09 successful UPSC CSE 2022 candidates on its website. On examination, it is observed that Top rankers of the UPSC CSE 2022 have not acknowledged the effort of class room coaching for clearing the Exam. On examining opposite party official YouTube Channel (www.youtube.com/@aptiplusias) and videos of successful candidates it was found that the candidate with AIR-601 attended the classroom session in 2018 and cleared UPSC CSE in the year 2022. Similarly, candidate with AIR-336 has joined Interview Guidance Programme of the opposite party and has not acknowledged the effort of classroom session for clearing the UPSC CSE 2022 in his testimonial video. The candidate who secured AIR -815 and AIR-234 recognized the current affairs magazine for CSE preparation but both the candidates were not the part of class room session of the Institute. Annexure-2
- vi. Opposite party is taking undue credit by advertising the name of the student (AIR-601) who attended their classroom programme in the year 2017-18 and successfully cleared UPSC CSE Exam in 2022 (AIR-601 rank holder did not take coaching from opposite party in 2021-22) with sole purpose of promoting their Institute. **Annexure-3**
- vii. Opposite party's claims regarding achieving several awards such as "World Education Summit Awards -2018 "and "Global Education Excellence Award-2019 " were not based on any transparent parameters/criteria on which these awards were given & same was not disclosed by Opposite party. Majority of rank holders showcased in the impugned advertisement attended only Mock interview programme of the opposite party's academy. It may be noted that Interview Guidance Program/online programme is not a full time class room session. Interview Guidance Programme comes into play after the candidate

has cleared Prelims and Mains Exam of UPSC Civil Services Exam. The claims made by the opposite party are unsubstantiated and unsuspecting candidates may get lured by the advertisement.

8. The Investigation Report submitted by DG (Investigation) was sent to the opposite party vide letter dated 10.11.2023 to furnish its comments, if any within 7 days.

9. In response to the Investigation report, CCPA received a reply from the opposite party on 17.11.2023, wherein, following submissions were made:

- i. "Detailed Admission Form of 4 candidates namely Smriti Mishra (AIR- 4), Kanika Goyal (AIR- 9), Yadav Suryabhan Achhetal (AIR-27) and Maliye Sri Pranav (AIR- 60) are unavailable as they were accepted through WhatsApp and mail registration for the Mock Guidance Programme, Aniruddha Yadav (AIR- 8) has taken guidance for Interview in UPSC CSE 2021 and 2022.
- *ii.* Admitted the fact that they have submitted DAF (Detailed Admission Form) of 129 successful candidates only as it is impossible to trace all other application forms as some of them were admitted through WhatsApp and mail. DAF of remaining 23 candidates could be retrieved if sufficient time is given.
- *iii.* Most of the candidates have opted for the Interview Guidance Programme from the Opposite Party's Academy.
- iv. Programme that successful candidates have opted was not mentioned unintentionally due to lack of space on the website advertisement. They stated that impugned advertisement was never published in any newspaper like other institutions to showcase the candidates as the classroom candidates. After receiving CCPA's Notice, the banner have been removed from the website.
- The total number of testimonials available for UPSC CSE is 15. The V. candidates were never pushed to give any credit to the opposite party's academy. The 15 candidates have provided their testimonial on their own wish and are 100 % genuine and no testimonial of the candidates have been misinterpreted. It is not possible to add testimonials on the website of all candidates due to the loading issue of the website page, where the other testimonials are listed in the YouTube channel link: https://www.youtube.com/@aptiplusias/playlists
- vi. Pradeep Kumar Barnwal (AIR-301) attended the classroom programme in 2018 and cleared the exam in 2022, where he has given his credit to APTI PLUS, Link- <u>https://www.youtube.com/shorts/0GFIsNvIIfY</u> and he never joined any other institute for classroom programme. Though the candidate has qualified for the exam after 4 years of preparation, opposite party's academy

played a vital role in his preparation and the candidate has admitted it. Additionally, Utkarsh Tripathi (AIR-336) has taken the Interview Guidance Programme; hence, his result have never been showcased as a classroom student Link- <u>https://www.youtube.com/shorts/WfJ1p56xxXY</u>

- vii. Opposite party never wanted to commercialise the services in the true sense and had been providing free current affairs support, monthly magazine, and Daily answer writing to successful candidates through its online platform <u>www.iasgyan.in</u>. Opposite party stated that none of the results were showcased as classroom candidates.
- viii. Opposite party stated that their Academy has received the World Education Summit Awards-2018 being Best Civil Service coaching institute in Odisha and Global Education Excellence Award-2019 for being Best Civil Service and State Services Coaching Institute in West Bengal and Odisha.
- ix. Majority of rank holders showcased in the impugned advertisement attended only for Mock Interview Programme of the Opposite party's Academy. Opposite party have proudly mentioned all candidates as they have chosen APTI PLUS as the part of the civil service journey and not to mislead future aspirants to get admission at the opposite party's academy.
- x. Opposite party have always believed in transparency and have showcased candidates in the courses they have taken for the guidance. That for instance, Garima Lohia (AIR- 2) or Aniruddh Yadav (AIR-8) are being shown in the result banner, their testimonial on interview have been uploaded wherein very transparently on the website and YouTube channel, its easily reflected that they have taken interview guidance only.
- xi. Opposite party never had any intention to mislead or misguide the consumers by deceptive advertisements in anyway. It is further stated that the Opposite party could never mention the course details in the result banner due to shortage of space in the banner or course wise segregation for the total results are claiming for due to lack of space and lack of awareness on maintaining the advertising standards that are set by CCPA.
- xii. Opposite party assure CCPA to keep complete transparency in all the future advertisement copies, and the academy have already taken necessary action to modify the complete website layout. Opposite party had also engaged a team of experts to draft an SOP for the advertisement in future keeping the current guidelines in their mind which the opposite party was previously unaware of due to lack of legal knowledge which the Institute is apologising and undertakes to set a standard of maintenance of the kind of the advertisement to be published in the future."

10. It is pertinent to mention that as of 08.11.2023, opposite party still uses the impugned advertisement on their website named <u>www.iasgyan.in</u>. **Annexure-4**

11. It may be mentioned that Section- 2(28) of the Act defines "misleading advertisement" in relation to any product or service i.e., an advertisement which falsely describes such service or falsely guarantees to or likely to mislead consumers as quality of such service or deliberately conceals important information. In the present matter, concealment of important information regarding the course opted by successful candidates in UPSC exam 2022, so advertised, prevents consumers from making an informed choice.

12. Therefore, opposite party's advertisement violates the Section-2(28) of the Consumer Protection Act, 2019 as they have deliberately concealed important information with respect to the course attended in order to deceive & mislead consumers. The impugned advertisement claimed that "150 plus students from their academy has cleared UPSC 2022 exam" whereas opposite party has submitted application forms of only 129 candidates. The Google drive folder link is of 129 candidates given below:

https://drive.google.com/drive/u/1/folders/1T8LIdQk3sDz1gFgHr6lINmxuLDmbWRg G

13. During the hearing held on 03.10.2023, opposite party submitted that 1 student took Classroom Programme, 6 took test series and 146 took Interview Guidance Programme. Opposite party did not submit details of students who all took Classroom Programme and Test Series. Additionally, they did not even submit any fee receipts of the selected candidates. Therefore, the claims made in the advertisement are not substantiated.

14. It is evident that out of 150 plus successful candidates showcased in the impugned advertisement, 146 took Mock Interview Program which is a free of cost program. It is understood that Mock interview is not a full-time program, and it comes into play only after an aspirant has cleared both the Prelims and Mains examination of CSE. Thus, it is clear that none of them have studied any other courses apart from the Mock Interview program that are advertised by the opposite party's Academy. This fact has not been disclosed in the impugned advertisement.

Opposite party's Academy offer the following courses on its official website (<u>www.aptiplus.in</u>) :-

Course	Course Duration	Mode	Course Net Amount (including GST) In Rupees
1 Year Integrated Pre	1 Year	Offline	141,600.00
Cum Mains			
1 Year Integrated Pre	1 Year	Online	122,000.00

Cum Mains			
2/3/4 Years Integrated	2/3/4 years	Offline	108,000.00
Pre Cum Mains			(Each subsequent
			year 35400/-)
Distance Learning	1 Year		50,000.00
Programme (DLP)			
Optional Subject	4-5 months	Online	35,400.00
CSAT for Prelims with			17,700.00
Test Series			
Personalized Mentorship	4 months	Online	14,999.00
Program			
Mains Mock Test Series	365 days*	Online/Offline	10,999.00
2023			
Prelims Test Series	365 days*	Offline	9,999.00
Platinum			
Prelims Test Series	365 days	Online	7,900.00
Platinum			
Mains Answer Writing	1 months	Online	1,200.00
Evl. Program			

Deliberately concealing important information in the impugned advertisement has been done with the sole purpose of misleading consumers into believing that the successful candidates must have taken any of the above mentioned advertised courses offered by the Opposite party. As per data submitted by opposite party during hearing dated 03.10.2023; 146 out of 150+ successful candidates from the APTI PLUS Academy had only taken Interview Guidance Programme offered free of cost by the opposite party but not advertised. Such false and deceptive advertisement affects consumers as a class. Thus, the claim on selection of 150 plus candidates from opposite party's Academy is found to be deceptive & misleading in the impugned advertisement.

15. As per UPSC, successful candidates of Civil Services Examination have to clear all the 3 stages of Exams. Viz., Prelims, Main Exams and Personality Test (PT). While Prelims is a screening test, the marks obtained in both Mains Exams and Personality Test are counted for getting finally selected. The total marks for Main Exams and PT are 1750 and 275 respectively. The contribution of Personality Test is 13.5% in the total marks.

16. As per a Press Release by the Union Public Service Commission (UPSC) dated 23 May, 2023 released by Press Information Bureau (PIB), a total of 11,35,697 candidates applied for UPSC Civil Services Examination, 2022, out of which a total of 13,090 candidates qualified for appearance in the Written (Main) Examination which was held in September, 2022. Further, a total of 2,529 candidates qualified for the Personality Test of the examination. At the end, a total of 933 candidates were recommended by the Commission for appointment to various Services. Therefore,

out of 2,529 candidates selected for Personality Test of CSE 2022, 1 out of every 2.7 such selected candidates have a strong probability to make it to the final selection in CSE.

17. It is pertinent to mention that the essence of misleading advertisement in Consumer Protection Act, 2019 and Guidelines for prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 is that an advertisement shall be considered valid & not misleading when it contains truthful & honest representation of facts by making disclosures in such a manner that they are clear, prominent and extremely hard to miss for viewers to notice.

18. In the instant case, opposite party has been found taking full credit of successful candidate's efforts and success by prominently putting their pictures in the advertisement and claiming that **150 plus selections out of 933 selected candidates** are from opposite party's Academy whereas the opposite party provided only a mock interview, free of cost, to the respective candidates. The candidates, who took the Interview Guidance Pogramme had already cleared Preliminary and Mains examination by themselves, with no contribution of the opposite party. By concealing the specific name of the course opted by the candidates, such false & misleading advertisement creates huge impact on those consumers who are UPSC aspirants without letting them know that the opposite party had offered mere guidance for Interview to only such successful candidates who had already cleared Preliminary and Mains examination of UPSC examination. Thus, the impugned advertisement has violated the consumer's right to be informed so as to protect himself against unfair trade practice.

19. Section- 2(47) of the Consumer 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.

20. Opposite party asserted the following claims without providing substantial evidence to support these claims :-

- i. "Best IAS Academy in Bhubaneswar and Kolkata."
- ii. "Best online and offline coaching for the UPSC IAS exam at a very affordable fee in comparison to the other best IAS coaching in India."
- iii. "Subject wise best faculty for UPSC in India."
- iv. "Best current affairs compilation for UPSC."
- v. "UPSC free study material of the best quality."
- vi. "Officers and India's Best Professors as your personal Mentors."

21. Claiming themselves as Best, should have been substantiated and based on any neutral market survey carried out between similarly placed all coaching institutes of Bhubaneswar and Kolkata or any third-party assessment which was based on **transparent & known parameters/indicators** for such assessment. Thus, claims

like Best IAS coaching Institute in Bhubaneswar and Kolkata constitute misleading advertisement. In the present matter, no comparative study was done by a third party before making the above claim such that the same could be considered to be a valid advertisement. Therefore, it is an exaggeration without any substantial validation.

22. The CCPA has carefully considered the written submissions as well as submissions made by the opposite party during hearing and investigation report submitted by Director General (Investigation) and found that the advertisement is false & misleading as it deliberately conceals important information with respect to course opted by successful candidates from their Academy, which consequently affects consumers as a class. Opposite party was advertising about other courses offered by them but they have nowhere advertised about Mock Interview Programme despite the fact that 146 out of 153 selected candidates took only Mock Interview Programme. Thus, opposite party has deliberately misled consumers by falsely describing its service and by concealing important information with the intent that such deceptive and unfair trade practice will cloud the judgment of large number of UPSC aspirants/consumers in deciding to avail the services offered by them. These advertisements appears to be made with the deliberate intent to keep the consumer in dark. Thus, it makes a fit case of misleading advertisement and unfair trade practice.

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.

24. It may be mentioned that every year approximately 10,00,000 students across the country appear for the UPSC exam. Therefore, the vulnerability of the class of persons likely to be adversely affected by such misleading advertisement is huge. However, the opposite party operates in Bhubaneswar & Kolkata and also provides online classes. Opposite party's claim of 150 plus selections out of 933 in UPSC CSE 2022 is outrageous & exaggerated and has been found to be false and without substantiation.

25. 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 impugned advertisement from all electronic and print media whatsoever with immediate effect.

- b) APTI PLUS Academy shall pay a penalty of ₹ 1,00,000 for publishing following false and misleading advertisement claims which affected the consumers as a class.
 - i. "Honoring our best! Our legacy of success continues with toppers in UPSC IAS 2022- 150 plus students from our academy have cleared UPSC 2022 exam."
 - ii. "Best IAS Academy in Bhubaneswar and Kolkata."
 - iii. "Best online and offline coaching for the UPSC IAS exam at a very affordable fee in comparison to the other best IAS coaching in India."
 - iv. "Subject wise best faculty for UPSC in India."
 - v. "Best current affairs compilation for UPSC."
 - vi. "UPSC free study material of the best quality."
 - vii. "Officers and India's Best Professors as your personal Mentors."
- 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.

Nidhi Khare

Chief Commissioner

Anupam Mishra Commissioner







Annexure- 3

Cademy for Civil Services Pet. Ltd.		Top Achievers of OPSC	
HOME COURSESV EBROCHURE V REGISTRATIONSV	2022	INR 8 CSE 2022	AIR 158 CSE 2022
"From APTI PLUS ACADEMY, "I took Interview Guidance from APTI PLUS, and it really helped me. I am grateful to them . All the very best to APTI PLUS students"	"Hello everyone, wishing all the students of AF best of luck for this year, and I hope all of achieve your dream. Thank you."		y UPSC-CSE journey. The emely cordial in the entire ersonality test phase. The nalized DAF question bank
Garima Lohia	Anirudhh Yadav	Chaitanya Khemani	
AIR 601 CSE		234 CSE 2022	AIR 815 CSE 2022
"Hello Everyone, I have secured 601 rank in UPSC CSE 2022. I was a classroom student of Apti Plus in Year 2017-18. Different initiatives like quiz through telegram daily answer writing platform were really very for me in my journey. A big thank you to entire APTI PLUS Family"	"I have recently achieved a rank of 234 in the concluded civil services 2022 examination. I wou thank Apti plus for their help and guidance d journey. I found their website IASGYAN.IN h preparing certain aspects of current affairs"	Id like to civil services examination 202 uring my this journey and acted as a g	2. APTI PLUS helped me in uide for UPSC mentorship.
Pradeep Kumar Barnwal	Ishan Sinha	Sourav Das	

Annexure-4

