

**Central Consumer Protection Authority**

**Krishi Bhawan, New Delhi -110011**

Case No: CCPA-2/88/2023-CCPA

In the matter of: Maluka IAS (Malukas Coaching OPC Pvt. Ltd.) regarding Misleading Advertisement.

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Maluka IAS:

Mr. Lachman Singh Maluka IAS, Director of Maluka IAS

Date: 28.05.2024

**ORDER**

1. This is a suo-moto case taken up by the Central Consumer Protection Authority (hereinafter referred as 'CCPA') against Maluka IAS/ Malukas Coaching OPC Pvt. Ltd. (hereinafter referred as opposite party) wherein it was observed that the opposite party was allegedly publishing the misleading advertisements on their website ([www.malukaias.com](http://www.malukaias.com)) making the following claims-

- i. 120+ selections in UPSC CSE 2022
- ii. Guaranteed Prelims & Mains.

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 preliminary inquiry report, it was found that the opposite party showcased various types of courses but the information with respect to the course opted by the said successful candidates in UPSC exam 2022 was concealed in the abovementioned advertisement. Opposite party also appears to be giving false guarantee by using term i.e. 'Guaranteed Prelims & Mains' which likely to misled consumers as to nature and quality of its service. 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 on the same source to substantiate the claim advertised by opposite party. From the preliminary inquiry report, it was clear that prima facie it was a fit case of Misleading Advertisement that affected consumers as a class.

3. Therefore, the CCPA issued a notice dated 27<sup>th</sup> December 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 giving a false guarantee which is likely to mislead the consumers as to the quality of its service. 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 16<sup>th</sup> January, 2024 was received from the opposite party, wherein, following submissions were made:
  - i. Presently, over 1200 students from all over the Country are enrolled with the Institute in different courses.
  - ii. Guaranteed success in UPSC Prelims and Mains exam is a conditional guarantee and as such success in UPSC Prelims is guaranteed upon a condition that the students enrolled with the institute score 120 marks out of 200 marks in any of the 25 tests out of the 30 tests conducted by the institute.
  - iii. For UPSC Main exam, the Institute assures that around 80% questions in the UPSC Mains will be from the class notes provided by the Institute. The guarantee for refund of entire fee is applicable if any of the assurance made by the Institute are not fulfilled. It submitted that at no point did the Institute represent that merely enrolling in the courses offered by the Institute would guarantee success in either UPSC Prelims or Mains.
  - iv. Without prejudice to the foregoing, the Institute on its volition, has proceeded to modify the advertisement to address the concerns raised in the CCPA's Notice under reply to show its bonafide.
  - v. The Institute has provided the details of 136 students enrolled with the Institute who have cleared UPSC CSE 2022 exam, as has been claimed in the advertisement.
5. In view of the above, CCPA sent the matter for investigation by Director General (Investigation) and requested a report to be submitted within 15 days.

6. The Director General (Investigation) in its investigation report dated 07.03.2024 submitted the following:

- i. As on 06.03.2024- Maluka IAS on its official website is still running the misleading advertisement.
- ii. Out of 136 claimed candidates, only 2 purchased any kind of course. Rest of the **134 candidates joined Free Interview Guidance Course**.
- iii. Section- 2(28) (iv) of Consumer Protection Act talks about misleading advertisement in relation to deliberately concealing important information. In the present case, type/name or duration of course opted by selected candidates is important information for the consumer so that they can make an informed choice. It is misleading to the potential aspirants (consumer as a class) as they make misinformed choice because it is nowhere mentioned in the advertisement about the courses opted by the selected candidate. Therefore, in the present case, Maluka IAS has deliberately concealed important information like type/name of courses opted by selected candidates and duration of the course attended by such student.
- iv. It should also be noted that it was nowhere mentioned in the advertisement that there are any prerequisite conditions related to Guaranteed Prelims and Mains, this type of claims made by coaching institutes mislead potential aspirants and their parents as it creates false sense of surety. Also, when those aspirants who could not get selected tries to claim the refund, they are bombarded with the terms and conditions which were not mentioned in the advertisement based on which they purchased the course. Thus, this amounts to unfair trade practice.
- v. Hence, it **appears to be in potential violation Section 2 (28) (ii) & (iv) of consumer rights under the Consumer Protection Act, 2019**. Any guarantees provided by the institutes must be disclosed in the advertisement itself, there should be no hidden terms and conditions. Here also, Maluka IAS **appears to be in violation of Section 2 (47) sub-clause (i) (b) & (h) (A) of the Consumer Protection Act, 2019**.

7. The Investigation Report submitted by DG (Investigation) was shared with the opposite party vide letter dated 13.03.2024 to furnish its comments, if any within 7 days.



8. In response to the Investigation report, CCPA received a reply from the opposite party on 16.04.2024, wherein, following submissions were made:

- i. It is submitted that, without prejudice to the reply dated 16.01.2024, the Institute took the initiative to update, alter and amend its official website so as to not display any allegedly misleading advertisements and consequently employed the services of a website designer who was tasked with the job of updating website to ensure the compliance of our assurance given in our reply dated 16.01.2024. It seems that the earlier advertisement was accidentally re-uploaded during a periodic update of the website. Please note that we have promptly taken corrective steps and removed the said advertisement.
- ii. Furthermore, the Institute has taken note of the requirements mandated by CCPA in the Investigation Report and would ensure that any advertisement in future carries along with it the prerequisite conditions for the guarantee/assurance extended by the Institute.
- iii. We are committed to working with the CCPA to make any necessary changes and support fair business practices. Institute aims to ensure transparency and compliance in our operations and is ready to address any concerns with the CCPA to maintain high standards of integrity and consumer protection.

9. Thereafter, an opportunity of hearing as mandated under the Consumer Protection Act was provided to the opposite party on 16.05.2024 wherein opposite party was represented by Mr. Lachman Singh, Director of Maluka IAS. He made the following submissions: -

- i. He accepted that it should not have occurred. Therefore, the institute has removed the misleading advertisement.
- ii. Guaranteed success in UPSC Prelims and Mains exam was a conditional guarantee and as such success in UPSC Prelims is guaranteed upon a condition that the students enrolled with the institute score 120 marks out of 200 marks in any of the 25 tests out of the 30 tests conducted by the institute.
- iii. Institute have upload a video on its YouTube channel (<https://www.youtube.com/watch?v=F9fbmXlindQ&t=187s>) which explains about the claim 'Guaranteed Prelims & Mains'.
- iv. Some students sent a mail or fill the form online for mock interview. That's why there is no enrolment for such students.

- vi. Accepted the fact that **134 out of 136 candidates** took **Free Interview Guidance Course** and only 2 purchased any kind of course from opposite party.
- vii. Opposite party has 5 different branches located in different cities.
- viii. Institute was not aware of requirement, rules and regulations under Consumer Protection Act, 2019. He assured the CCPA that from now onwards Institute will mention the course opted by the successful candidates in its advertisements.
- ix. He accepted the fact that if any student who fulfils the prerequisite conditions for the 'Guaranteed Prelims & Mains' claim but fails to clear either prelims or mains, Institute will refund the amount paid by that student.

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

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

11. Advertisement shall contain truthful & honest representation of facts by disclosing important information in such a manner that they are clear, prominent and extremely hard to miss for viewers to notice.

12. Union Public Service Commission (UPSC) in its Press Release dated 23 May 2023 announced that a total of 11,35,697 candidates applied for UPSC Civil Services Examination, 2022. Opposite party's advertisement was targeted towards a class of consumers i.e. UPSC aspirants. A total of 933 candidates were recommended by the UPSC for appointment to various Services. The Appellant in its advertisement claimed 120 plus selections out of 933 total selections and concealed important information regarding courses opted by the successful candidates.



13. It is important to mention that information regarding the course opted by successful candidates is important for the consumers to know so that they can make informed choice while deciding which course and coaching institute to join. Opposite party published advertisement claiming '**120+ selections in UPSC CSE 2022**' and prominently used names & pictures of the said successful candidates wherein it claimed them as its students and mislead consumers while deliberately concealed important information from the consumers such as which specific courses these successful candidates have undertaken at its institute. This has the effect of consumers falsely believing that all the successful candidates so claimed by the Institute had opted for the paid courses advertised by the opposite party on its website and Brochure (Table 1):-

Table 1

<b>OFFLINE</b>			
	1 Year	2 Year	3 Year
GS	1,41,000	1,99,000	2,56,000
GS+CSAT	1,55,760	2,11,160	2,70,160
GS+CSAT+ OPTIONAL	2,02,960	2,58,360	3,12,360
<b>ONLINE</b>			
	1 Year	2 Year	3 Year
GS	70,000	1,11,800	1,40,000
GS+CSAT	79,060	1,19,260	1,48,260
GS+CSAT+ OPTIONAL	1,05,020	1,45,220	1,74,220

14. Opposite party submitted the details of 136 successful students against its claims of '120+ selections in UPSC CSE 2022'. CCPA examined the details submitted by the opposite party and found that 134 out of 136 candidates took Interview Guidance Course which is free of cost and only 2 purchased any kind of course from opposite party's Institute (Table 2). 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 UPSC Civil Service Examination. Thus, it is clear that none of 134 successful candidates had undertaken any paid courses of the

Institute apart from the Free Mock Interview program that are advertised by the opposite party's Institute on its website and Brochure. This important information was deliberately concealed in the said advertisement by opposite party.

Table 2

Opposite party advertisement	Details submitted by Opposite party	
<b>120 plus selection</b>	<b>136</b>	
	Courses opted by 136 successful candidates	
	<b>134</b> took Interview Guidance Programme	2 student took any other paid courses.

15. 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 120+ selections in UPSC CSE 2022 whereas the opposite party provided only a brief mock interview, free of cost, to the respective candidates, which is completely misleading.

16. Such false and deceptive advertisement affects consumers as a class. Opposite party concealed important information in the advertisement. Therefore, opposite party's claim '**120+ selections in UPSC CSE 2022**' while prominently using successful candidates' names and photos is found to be misleading under Consumer Protection Act, 2019.

17. In reply to CCPA Notice dated 27.12.2023, Maluka IAS submitted a reply dated 16.01.2024 wherein they submitted names of 136 students. On 07.03.2024, opposite party submitted enrollment form of only 72 students to DG Investigation against the names of 136 students' names. Therefore, opposite failed to submitted enrolment form/consent form of remaining 64 students.

18. Further, it is important to mention that 'Guaranteed Prelims & Mains' misleads aspirants regarding the nature and quality of the institute's services, suggesting that any aspirant who enrolls will be guaranteed to clear the prelims and mains. This



deceptive practice consequently lures aspirants/consumers into taking admission at the institute. The claim of 'Guaranteed Prelims & Mains' fits the definition of 'misleading advertisement' under Section- 2(28) of the Act as it falsely guarantees success, thereby creating a misleading impression about the efficiency of the institute's services.

19. Advertisement published by opposite party on its official website and Brochure advertised the claim 'Guaranteed Prelims and Mains' and nowhere disclosed about any prerequisite conditions on the same source i.e. official website and Brochure. Opposite party deliberately concealed prerequisite conditions related to the said claim. Such claim by coaching institute mislead aspirants by creating a false sense of certainty which falls within the meaning of Section 2(28) (ii) and (iv) of the Consumer Protection Act, 2019. Further, the advertisement has violated the consumer's right to be informed so as to protect himself against unfair trade practice.

20. 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 the course opted by the said successful candidates from its Institute and mislead aspirants/consumers regarding the nature and quality of the institute's services, suggesting that any aspirant who enrolls will be guaranteed to clear the Prelims and Mains. This deceptive practice consequently lures aspirants/consumers into taking admission at the institute and affects consumers as a class. Thus, it makes a fit case of misleading advertisement and unfair trade practice.

21. 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.

22. The opposite party has 9 centers across India. It may be mentioned that every year approximately 11,00,000 students apply for the UPSC Civil Service exam. Therefore, the vulnerability of the class of persons likely to be adversely affected by such misleading advertisement is huge.

23. 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) Opposite party shall pay a penalty of ₹ 3,00,000 for publishing following false and misleading advertisement claims which affected the consumers as a class.
  - i. 120+ selections in UPSC CSE 2022
  - ii. Guaranteed Prelims & Mains.
- 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