



\$~66

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12017/2024**
MADE EASY LEARNINGS PRIVATE LIMITED (TRADING AS
NEXT IAS)Petitioner

Through: Mr. Dayan Krishnan, Senior
Advocate with Mr. Vikram Hegde,
Mr. Ajay Tyagi, Ms. Hima Lawrence,
Mr. Chitwan Sharma and Mr.
Sanjeevi Sheshadri, Advocates.

versus

CENTRAL CONSUMER PROTECTION AUTHORITY & ORS.
.....Respondents

Through: Mr. Kirtiman Singh, CGSC with Mr.
Varun Pratap Singh, Mr. Waize Ali
Noor, Mr. Maulik Khurana, Mr.
Abhinav Bansal, Mr. Shubham Gill
and Ms. Divya Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
03.09.2024

%

1. The Petitioner is an institute offering coaching services to candidates aspiring for the Civil Services Examination conducted by the Union Public Service Commission¹. They are aggrieved by the notices dated 25th August, 2022 and 29th August, 2023², issued by Respondent No. 1, the Central Consumer Protection Authority³ constituted under Section 10 of the Consumer Protection Act, 2019⁴. These notices allege violation of Section

¹ "UPSC"

² "Impugned notices"

³ "Central Authority"

⁴ 'the Act'



18(1) of the Act in relation to certain advertisements which showcased the success of the Petitioner's students in Civil Services Examination 2021 and Civil Services Examination 2022.

2. Under the framework of the Act, following an investigation carried out by Respondent No. 4, the investigative wing of the Central Consumer Protection Authority under Section 18 of the Act, the Central Authority has proceeded to issue the impugned notices to the Petitioner under Section 21 of the Act, which empowers them to take action against false or misleading advertisements. Section 21 reads as follows:

"Section 21. Power of Central Authority to issue directions and penalties against false or misleading advertisements.

(1) Where the Central Authority is satisfied after investigation that any advertisement is false or misleading and is prejudicial to the interest of any consumer or is in contravention of consumer rights, it may, by order, issue directions to the concerned trader or manufacturer or endorser or advertiser or publisher, as the case may be, to discontinue such advertisement or to modify the same in such manner and within such time as may be specified in that order.

(2) Notwithstanding the order passed under sub-section (1), if the Central Authority is of the opinion that it is necessary to impose a penalty in respect of such false or misleading advertisement, by a manufacturer or an endorser, it may, by order, impose on manufacturer or endorser a penalty which may extend to ten lakh rupees:

Provided that the Central Authority may, for every subsequent contravention by a manufacturer or endorser, impose a penalty, which may extend to fifty lakh rupees.

(3) Notwithstanding any order under sub-sections (1) and (2), where the Central Authority deems it necessary, it may, by order, prohibit the endorser of a false or misleading advertisement from making endorsement of any product or service for a period which may extend to one year:

Provided that the Central Authority may, for every subsequent contravention, prohibit such endorser from making endorsement in



respect of any product or service for a period which may extend to three years.

(4) Where the Central Authority is satisfied after investigation that any person is found to publish, or is a party to the publication of, a misleading advertisement, it may impose on such person a penalty which may extend to ten lakh rupees.

(5) No endorser shall be liable to a penalty under sub-sections (2) and (3) if he has exercised due diligence to verify the veracity of the claims made in the advertisement regarding the product or service being endorsed by him.

(6) No person shall be liable to such penalty if he proves that he had published or arranged for the publication of such advertisement in the ordinary course of his business:

Provided that no such defence shall be available to such person if he had previous knowledge of the order passed by the Central Authority for withdrawal or modification of such advertisement.

(7) While determining the penalty under this section, regard shall be had to the following, namely: --

- (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; and*
- (d) the gross revenue from the sales effected by virtue of such offence.*

(8) The Central Authority shall give the person an opportunity of being heard before an order under this section is passed."

3. Mr. Dayan Krishnan, Senior Counsel for the Petitioner, contends that the investigation report, which serves as the foundation for any proposed action against the Petitioner, does not establish the advertisements in question as being false, misleading, or prejudicial to the interests of consumers, nor does it demonstrate any contravention of consumer rights.



He argues that the investigation fails to meet the required threshold to categorize the advertisements as ‘misleading advertisements’ within the meaning of Section 2(28) of the Act. Consequently, it is asserted that the proceedings initiated under Section 21 of the Act are without any substantive basis or justification, as there is no *prima facie* evidence suggesting that the advertisements have, in any way, misled consumers or violated their rights.

4. After hearing Mr. Dayan Krishnan’s submissions, this Court suggested that the Petitioner should, in the first instance, consider raising their contentions before the Central Authority. This would enable the Petitioner to avail the appropriate statutory remedies available under the Act, before seeking judicial intervention under Article 226 of the Constitution of India. However, Mr. Krishnan expresses his apprehensions regarding the adequacy of the procedural safeguards provided under Section 21 of the Act. He contends that the proceedings under Section 21 are narrowly confined to the issue of whether a penalty should be imposed for alleged misleading advertisements. He urges that this limited scope would not provide the Petitioner with a fair and comprehensive opportunity to challenge the very basis of the allegations against them or to present a complete defence against the claims of false or misleading advertising.

5. On the other hand, Mr. Kirtiman Singh, CGSC representing the Respondents, contends that the Petitioner’s apprehensions are misplaced. He submits that a plain and holistic reading of sub-sections (1) and (4) of Section 21 of the Act clearly indicates that the Central Authority has the jurisdiction and mandate to consider all arguments raised by the Petitioner in the present writ petition. According to Mr. Singh, the provisions under



Section 21 allows the Central Authority to thoroughly examine whether the advertisement in question is false or misleading and whether it contravenes the rights of the consumers. He asserts that the Central Authority is fully empowered to assess the veracity of the claims, and determine the necessity of any corrective action, including the imposition of penalties or other measures, thus providing a comprehensive mechanism to address the concerns raised by the Petitioner.

6. The Court has carefully examined the provisions under Section 21 of the Act. It is observed that an investigation report is not a *fait accompli* for imposing a penalty, the provisions of Section 21 provide for a structured process of determination to ensure that the rights of the affected party are adequately protected before any adverse decision is taken, such as the imposition of a penalty. The language of the provision, particularly the term ‘satisfaction,’ carries significant weight. Section 21 mandates that the Central Authority must reach its ‘satisfaction’ or conclusion after thoroughly considering the investigation report. This term implies a duty on the part of the Central Authority to engage in a holistic and deliberative process, where it is required to address and decide upon all relevant questions and concerns raised by the Petitioner. The satisfaction of the Central Authority cannot be arbitrary or superficial; it must be founded in a reasoned evaluation of the facts, findings, and arguments presented by the party challenging the investigation report. Thus, the provision inherently calls for an adjudicatory process to arrive at a conclusion of wrongdoing.

7. Furthermore, sub-section (8) of Section 21 strengthens the Court’s abovementioned understanding. The provision provides the affected party, such as the Petitioner herein, with a clear opportunity to be heard and is



therefore an essential statutory safeguard. This provision allows the Petitioner to fully present their case, contest the findings of the investigation, and bring forth any additional arguments or evidence in their defence.

8. Given these provisions, it is evident that the statutory framework under Section 21 of the Act envisages a process where the Central Authority must thoroughly deliberate on all aspects of the case, including the Petitioner's grievances, before arriving at a conclusion. As such, the Act clearly anticipates that the rights of the affected party must be safeguarded throughout the process, ensuring that the investigation report is not, by itself, conclusive or determinative of liability.

9. Therefore, in light of the forgoing discussion, since the Central Authority has not yet formally considered the investigation report, in the opinion of the Court, all of the Petitioner's contentions can be effectively adjudicated by the Central Authority in accordance with Section 21 of the Act, after providing them a fair opportunity to be heard.

10. At this juncture, Mr. Dayan Krishnan submits that the time period for filing a reply to the show cause notice has exceeded the timeline set in the impugned notice. Therefore, he requests for an extension by a period of two weeks.

11. In view of the above, the present writ petition is disposed of with the direction that the Petitioner shall, within a period of two weeks from today, submit an additionally reply, if any, to the investigations report of Respondent No. 4, which shall be duly considered by the Central Authority in accordance with law in light of the observations made hereinabove.

12. All rights and contentions of the parties are left open. It is made clear that the court has not made any observations on the merits of the case.



13. With the above direction, the present writ petition is disposed of, along with the pending application(s).

SANJEEV NARULA, J

SEPTEMBER 3, 2024

as