

Heading1

Heading2

Complaint Case No. CC/248/2018

(Date of Filing : 15 Nov 2018)

1. SATYATA

H. NO. 457. 3rd FLOOR, SUNLIGHT COLONY-II, HARI
NAGAR ASHRAM NEW DELHI-110014.

.....Complainant(s)

Versus

1. IAS GURUKUL

57/12, TOP FLOOR BADA BAZAR ROAD, OLD
RAJENDRA NAGAR, NEW DELHI-110060.

.....Opp.Party(s)

BEFORE:

HON'BLE MR. INDER JEET SINGH PRESIDENT

HON'BLE MS. RASHMI BANSAL MEMBER

PRESENT:

Dated : 30 Sep 2024

Final Order / Judgement

Before the District Consumer Dispute Redressal Commission [Central District] - VIII, 5th
Floor MaharanaPratap ISBT Building, Kashmere Gate, Delhi

Complaint Case No. 248/2018

Ms. Satyata

r/o House No. 457, 3rd Floor,

Sunlight Colony-II, Hari Nagar Ashram

New Delhi-110014

...Complainant

Versus

IAS Gurukul

(through Ms.. PranayAgarwal, Director)

on 03.06.2018, she was informed that her course had been completed, except for the Ethics classes. The complainant protested, stating that she had attended classes for four months only and that too on weekends, but the OP was unresponsive and asked her to join a new batch. The complainant alleges unfair trade practices by the OP, not only against her but other students as well.

1. The complainant sought redress by lodging complaints with the OP via emails dated 23.08.2018 and 04.09.2018, which went unanswered. Her police complaint lodged against OP was also not acted upon. Complainant submits that none of the services promised in the OP's advertisement and information brochure were delivered but proved false and misleading. The mentors named in the brochure, as detailed in para 9 of the complaint, never visited or interacted with the students and no sessions on personal attention, counselling, test series, personality development, revision classes, doubt clearing or personal guidance from previous year's toppers were conducted. Complainant further claims that the selected candidates shown in the information brochure were never mentored by OP's faculty. The complainant asserts that the OP has usurped significant sums from students and compromised their time and future. Complainant served OP with a legal notice dated 18.09.2018 seeking the refund of money along with punitive damages for the loss of her precious and valuable time, in response of which OP though sent a reply dated 05.10.2018 but nowhere stated that it had fulfilled its obligation / promise made in the brochure and advertisement rather made false and baseless allegations against the complainant. It is submitted by the complainant that due to through its deficient services and misleading advertisementshe suffered financial loss as well as harm to her studies irreparable loss to her life and career and other students are also suffering in similar way. Complainant seeks a refund of Rs. 98,000/-, punitive damages of Rs. 15 lakhs and litigation costs of Rs. 30,000/- from OP.

2. The OP, upon notice, appeared and filed a reply, admitting the complainant's enrollment in November 2017 but claimed that she completed nine months of classes without raising any complaints during that period. The OP alleges that the complainant's demand for a refund is baseless and made only after nine months of attendance. OP submits that if the faculties of OP were so incompetent or no services as promised has been provided by the OP, then why the complainant attended classes for long duration of 9 months and not even a single complaint made by her. OP further submits that if the grievances of the complainant were genuine, then she would have asked for the refund much sooner. OP submits that after attending classes for 9 months, complainant changed her mind and withdrew herself from the preparation of the IAS and as she was already working with TATA consultancy services, so she might have got better options for herself. OP submits that the complainant has also not appeared for the exam and in order to put pressure upon OP for refund of fee, the present complaint is filed on false and frivolous grounds. Further, OP denies any misrepresentation on it's part, stating that the relevant advertisement was published in 2018, after the complainant's enrollment in 2017 in OP's institute and asserts that the police complaint filed by the complainant against it was also dismissed due to lack of evidence against it. The OP submits that it has also initiated civil and criminal defamation proceedings against the complainant and requests dismissal of the complaint.

2. OP further submits that complainant is not a genuine person and has been cooking up unsubstantiated false claims in her different complaint/ letters, like in para 5 of the complaint, the complainant has claimed that she has enrolled herself in weekend batch in "Full IAS Preparation program of 11 months", but in her letter dated 04.09.2018to OP, the complainant claimed that she joined for 2-3 years program for weekend batches, such contradictory statements are clear evidence of the falsehood of

- the claim and allegations of the complainant.
2. The OP claims that several government officials have appreciated its services and submits testimonials as evidence of it's working . The OP submits that the complainant's attendance of four months, by her own admission, demonstrates that classes were conducted satisfactorily as per promises made by OP and the complainant was satisfied with the teaching quality.
 3. The complainant filed rejoinder refuting the OP's claims, reiterating her version of the complaint, stating that initially she has enrolled herself for a 2-3 year program but later converted to the 11-month program and denied attending nine months of classes. Complainant submits that the OP has not provided any attendance records to support its claims showing that she has attended classes for 9 months and insists that the OP has not proven the provision of promised services. She further maintains that the use of well-known mentors' names in the brochure, who never interacted with students, is wrong and misleading. The complainant also submits that non-registration of the FIR is irrelevant to the decision of this complaint and admits receiving the defamation notice sent by the OP. Complainant states that she has served a legal notice upon OP, which though was replied by OP but nowhere has mentioned that it has fulfilled its promises rather made false allegations against the complainant. Therefore, the complainant has filed the present complaint for redressal of her grievances against OP. It is further submitted that she has not withdrew herself for any other reason but due to deficient services by OP and has also appeared in the IAS examination and has filed the documents in support of her statement.
 4. Both the parties have filed their respective evidences by way of affidavit and endorsed the documents filed in support of their case.
 4. The complainant, in support of her case, has filed copies of the advertisement, information brochure, fee receipts, letter dated 04.09.2018, legal notice dated 18.09.2018, the OP's reply dated 05.10.2018 and the Civil Service Examination admission card and question paper.
 4. The OP has filed a defamation notice dated 07.10.2018 issued to the complainant and testimonials in a CD.
 5. The Commission has perused the documents on record filed by both the parties and heard the oral submissions from both parties.
 5. The complainant's admission in the course and payment of fee of Rs. 98,000/- are undisputed, as are the OP's advertisement and brochure, which promised specific services. The OP's claim that the complainant attended nine months of classes is unsubstantiated by any attendance records. In the absence of such evidence, the complainant's contention is to be accepted that she attended classes for only four months. The OP's argument that the advertisement was not in existence in 2017 when the complainant enrolled is also unsupported by evidence and is therefore dismissed. The OP further failed to refute the allegations regarding misleading advertisements and brochures with the promise to provide services as per para 4 of the complaint, by any evidence and in absence of which complainant's claims survives. The OP has also not provided any evidence that it delivered the promised services and the mentors mentioned in the brochure have addressed the students further discredits the OP's defence. OP also failed to place on record the details of the teaching faculty appointed by it, in the absence of which, the OP claim that it has qualified faculty proved false.
 5. The allegation of the OP with respect to the examinations undertaken by the complainant is not relevant as the present complaint is with respect to the deficiency on the part of OP in providing promised services to the complainant in lieu of the consideration paid and not on whether complainant appeared in exam or not. Even otherwise, the identity card and the examination paper filed by the complainant prove

that the complainant has appeared in the examination and therefore, this contention of the OP is rejected.

5. The OP's contention that the complainant attended demo classes and was satisfied before enrollment does not establish that the OP maintained its promised quality of faculty or services. Demo classes cannot fully demonstrate the capability of faculty. Moreover, in its reply, OP nowhere provided details of the faculties appointed by it for taking classes of subjects chosen by the complainant or even for any subject. OP failed to provide any evidence to refute the complainant's allegations regarding the lack of competent faculty and regular classes.
5. The criminal complaint filed by the complainant against OP, though it was not resulted in an FIR, is another proceedings that does not absolve OP of its liability under the Consumer Protection Act, 2019.
5. The advertisement and brochure as issued by OP are matter of serious concern, as they contain promises that affects and influence a student's decision whether to get himself enrolled with OP or not. Complainant allegation that these advertisements and brochure are misleading as none of the promises mentioned there are fulfilled by OP and none of the mentor named there has come to interact with the students. The said allegation is neither denied by OP specifically nor by placing on record any evidence showing appearance of any of the mentor to its coaching. The testimonials from such people, as filed by the OP, are not the proof establishing sufficient services are being provided by the OP. Therefore, considering the facts and circumstances of the cases and above discussion, the Commission is of the view that OP is guilty of publishing the advertisements and brochure as misleading in order to lure the students without intention to fulfil the promises made therein.
5. The practice of requiring fee payment in lump-sum offering discounts for services yet to be rendered is unethical and unfair, as students are left with no recourse once fees is paid as per judgment of the Delhi State Consumer Dispute Redressal Commission in FIIT JEE Limited vs. MinathiRath, which was relied upon by the complainant, wherein Hon'ble State Commission condemned similar practices by coaching centers and prohibited charging fees for the entire duration of a course in advance. Though, the said order was modified by Hon'ble NCDRC in revision petition titled 'FIIT JEE Limited vs. MinathiRath RP. 3365/2006, decided on 14.11.2011, to the extent of refund of fees for the un-utilised period with interest @ 6% p.a. and compensation towards mental agony and litigation cost and set aside the orbiter dictum as well as punitive charges imposed by the State Commission, however, hold that the institute/petitioner could not have charged full advance fees for two years and could have charged prescribed fees for one semester/year.
5. Given that the OP does not follow any semester system nor has provided any specific duration for the course, even the brochure mentions '2-3 years' in the column of 'duration', which is not specific, therefore, it is not justiciable on the part of OP to retain fee for the period left unutilized by the complainant. Therefore, considering, complainant's dissatisfaction with the services provided by OP and her attendance for the class for four months only, which was not denied by evidence by OP and the above stated case, the complainant is held entitled to get refund of the fees for the period remained unattended by her. Therefore, OP is allowed to retain the fees for the months, it has imparted education to the complainant i.e. for the four months and directed to refund the rest of the amount to the complainant.
5. Further, OP failed to prove his case and found guilty of unfair practices, including publishing misleading advertisements and charging lump-sum fees, getting itself unjustly enriched through unfair practices and deficient services and causing mental harassment and detrimental effects on the complainant's studies, therefore, is

liable to compensate the complainant. further, since the complainant had to take recourse of the legal help by issuing legal notice and filing present complainant for redressal of her grievances, therefore she is entitled for litigation cost as well.

5. OP has relied upon the judgements of Deep Shikha College vs. Abhay Kumar Jain appeal no. 30/2007 and Rahul sardana vs. Pushpinder Kumar Sharma, appeal no. 174/2013 (challenged before Hon'ble NCDRC, RP3238/2013), which are not applicable in the facts and circumstances of present case, as in both these cases the complainant was not able to establish deficiency of services on the part of OP and their involvement in unfair trade practice whereas in the present case the complainant has established deficiency in service on the part of OP by producing reliable evidence in her favour and OP failed to produce any document on record to show that it has provided sufficient services to the complainant.
6. In light of the above discussion, the OP is directed to refund Rs. 62,363/- to the complainant, calculated on a pro-rata basis for the seven months of unutilized classes @Rs. 8,909/- per month (calculated on the basis of total fee paid of Rs. 98,000/- for 11 months. The fee for balance 7 months would be $7 \times 8909 = 62,363/-$). Additionally, the OP is ordered to pay Rs. 10,000/- as compensation for mental agony and harassment suffered by the complainant and Rs. 5,000/- towards the litigation cost. The punitive damages as claimed by the complainant are not awarded, in line with the Hon'ble NCDRC's order in the 'MinathiRath' (supra) case.

The above-stated amounts are to be paid to the complainant within 45 days from the date of this order. In the event of non-compliance, the OP shall be liable to pay interest at the rate of 6% p.a. on Rs. 62,363/- until its realization by the complainant. The OP may deposit the said amount in the Registry of this Commission by a valid instrument in the name of the complainant.

7. Copy of this order be sent forth with to the parties free of cost as per rules and order be uploaded on the website of this commission, before consigning the file to record room.
8. Announced on 30.09.2024.

RashmiBansal
Member

CC-248/2018 SatyataVs IAS Gurukul

by - InderJeet Singh, President

I have gone through the order and findings rendered by my colleague/ Member to this Commission, by allowing the complaint in favour of complainant and against OP. However, it needs to supplement reasons on few points for the sake of clarity and to reflect complete record. They are -

- (i) The complaint was filed in November 2018 but the Consumer Protection

Act, 2019 was enforced and is effective from 20.07.2019. Therefore, the Consumer Protection Act, 1986 be read appropriately including in sub-paragraph 5.4.

(ii) Misleading advertisement has not been defined in the Act, 1986 but advertisement and misleading advertisement have been respectively defined u/ss. 2(1) and 2(28) of the Act, 2019. However, section 2(r) of the Act 1986 defines unfair trade practice which also includes a false statement or advertisement in respect of services within its compass. The case of parties is to be read from that point of view of law.

(iii) The parties have filed documents in support of their pleadings and they also led their respective evidence including proof of documents. The complainant Ms Satyatal led her own evidence and OP led its evidence through its Director - ShriPranayAgarwal. The paragraph 5 is to be read from that prospective of weighing of evidence and appreciation of evidence including proof of documents, instead of just pleadings or filing of documents.

(iv) Announced on this 30th day of September 2024 [अश्विन08, साका1946]. Copy of this Order be also sent/provided forthwith to the parties free of cost as per rules for compliances, besides to upload on the website of this Commission.

InderJeet Singh

President

**[HON'BLE MR. INDER JEET SINGH]
PRESIDENT**

**[HON'BLE MS. RASHMI BANSAL]
MEMBER**