

**(1987) 10 BOM CK 0013**  
**In the Bombay High Court**

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|----------------------------------------------------|------------|
| Director-general of Investigation and Registration | APPELLANT  |
| Vs                                                 |            |
| Indian Management Development Institute            | RESPONDENT |

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**Date of Decision :** 01-10-1987

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 3  
Monopolies and Restrictive Trade Practices Act, 1969 — Section 12A, 36A(1), 36B

**Citation :** (1988) 63 CompCas 132

**Hon'ble Judges :** S.C. Manchanda, J;J. (Chairman), J;G.R. Luthra, J

**Bench :** Full Bench

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**Judgement**

G.r. Luthra, J. (Chairman)

1. The present application u/s 12A of the Monopolies and Restrictive Trade Practices Act, 1969, has been filed by the Director-General of Investigation and Registration. This application has been given during the pendency of enquiry on the basis of an application u/s 36B(c) of the Monopolies and Restrictive Trade Practices Act. A notice of enquiry has already been directed to be issued on the basis of the aforesaid application u/s 36B(c) of the Monopolies and Restrictive Trade Practices Act.

2. The respondent released advertisement in various newspaper under the name "Indian Management Development Institute " inviting people to study through correspondence MBA (Master of Business Administration ) course which is for two years divided into four semesters.

3. The Director-General alleges that the respondent is indulging in unfair trade practices within the meaning of section 36A(1)(ii) and (vi) of the Monopolies and Restrictive trade Practices Act for the following reasons :

(1) In order that MBA degree can be awarded, the Institute doing so must be affiliated to some university but in the present case the respondent is not affiliated to any university and hence any degree awarded by the respondent will be just a scrap of paper.

(2) The respondent's trade is in fact a sole proprietorship venture of Shri S. K. Batra, resident of 401, Defence Colony, New Delhi, and is nothing more than a one-man teaching shop imparting the alleged education through correspondence, but in order to earn credibility, it has adopted a very high sounding name as if it is a national level institute and has also associated the name of a senior retired Army Officer, Lt. General G. S. Rawat, as Honorary Executive Director.

(3) The respondent has issued a brochure under the name "INFORMATION FOLDER" valid up to September 10, 1987, a printed copy of which has been shown to us at the time of the hearing. In that brochure, fee is mentioned as Rs. 3,500 payable in installments of twelve months after enrolment with a concession of reduction of Rs. 700 in the event of full payment at the time of filing of the application for enrolment. The aforesaid fee is exorbitant having regard to the fact that the total fee of the All-India Management Association, which is running a diploma course in management and which has been duly recognised by the Government of India, is Rs. 2,500 only for MBA course of two years. It is on account of the allurements offered in the advertisements as well as brochure that the students are being fleeced of the aforesaid amounts.

(4) In order to gain the confidence of the students, it has claimed in the "INFORMATION FOLDER" aforesaid, that more than 1,000 students including graduates, post-graduates and service officers have been enrolled for MBA course. Thus, according to the respondent's own assertion contained in the "INFORMATION FOLDER", the respondent has been able to collect a hefty amount of Rs. 35 lakhs.

(5) IN THE "INFORMATION FOLDER" under the heading "FACULTY", the following claims have been made :

"The institute faculty comprise of academicians and entrepreneurs drawn from various disciplines of management such as finance, marketing personnel and behavioral sciences, etc. Additionally the institute has a BOARD OF CONSULTANTS is the policy-making body of the IMDI. Lieutenant General, G. S. Rawat, PVSM, AVSM, (Retd.), Ex-Vice Chief of the Army Staff heads the Administrative Wing of the IMDI."

4. According to the Director-General, the investigation indicates that the entire show is being managed by one man, viz., Shri S. K. Batra, and the aforesaid information is totally misleading and false. It may be mentioned that the "INFORMATION FOLDER" does not mention the name of even a single academician or a member of the so called board of consultants.

5. The Director-General prays for an immediate ex parte temporary injunction restraining the respondent from continuing with the aforesaid unfair trade practices because the advertisements are still continuing and the respondent is still accepting enrolment of students and fees from them, which is causing continuous loss or injury to the student community and is obviously prejudicial to public interest as well as the interest of the consumers, viz., students.

6. We have considered the entire matter. The Director-General has apparently a strong prima facie case and it is absolutely necessary that an ex parte injunction should be issued immediately because any delay in the grant of injunction will defeat the very purpose as in the meantime many more students on account of the allurements given in the advertisements might enroll themselves with the respondent and thus lose their money. Therefore, we issue a temporary injunction restraining the respondent from indulging in the unfair trade practice of advertisement or in any way publicising its courses, in the misleading manner in which it is being done already, through newspapers or any other media or "INFORMATION FOLDER" or any other method.

7. In view of rule 3 of Order 39, Civil Procedure Code, the Director-General shall send a copy of each of the application u/s 36B(c) and 12A of the Monopolies and Restrictive Trade Practices Act, a copy of the affidavit attached with the application u/s 12A of the Monopolies and Restrictive Trade Practices Act along with intimation of the issue of injunction. This be done within two working days and affidavit of compliance be filed.

8. It is made clear that whatever has been stated in this order will not prejudice the final decision of this application u/s 12A of the Monopolies and Restrictive Trade Practices Act as well as the enquiry started on the basis of the application u/s 36B(c) of the Monopolies and Restrictive Trade Practices Act.

9. The injunction order already granted will continue till further order and a copy of this order along with a copy of the application u/s 12A of the Monopolies and Restrictive Trade Practices Act shall be sent to the respondent for showing cause on October 28, 1987, as to why this order should not be continued till the disposal of the enquiry.