

Delhi HC restrains Amazon, Flipkart, Snapdeal from selling direct sellers' products without consent

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If you are an avid buyer of health and beauty products from the likes of Amazon and Flipkart, the Delhi High Court has some cautionary advice for you. While hearing a plea filed by Amway, Modicare and Oriflame alleging unauthorised sale of the products under their brands on the leading ecommerce platforms as well as chances of counterfeit goods, the court put the spotlight on several malpractices.

Based on the report submitted by local commissioners, who inspected the warehouses of certain sellers on Amazon, Flipkart, Healthkart, Snapdeal and 1MG, the court observed that not only were the MRPs on the higher side but there was also wrong attribution of names. Furthermore, codes and inner seals of the products had been tampered with and expired products were being given new manufacturing dates. Instead of selling genuine goods, some of the defendants were actually selling completely tampered products.

The three direct sellers had further alleged that their products were being sold on the e-commerce platforms at cheaper rates resulting in financial losses to them. The interim direction by Justice Pratibha M Singh restrains major etailers from selling products of the three petitioners without their consent. Quoting from the Spiderman movie that "with great power comes great responsibility", the court pointed out that e-commerce platforms, which has penetrated all forms of business, have the obligation to maintain the sanctity of contracts and should not encourage or induce a breach.

The judge observed that "at the prima facie stage, the apprehension of the plaintiffs that the products are being sourced through unauthorised channels and that the products are tampered, conditions changed and impaired, is completely valid". In addition, their right to carry on business was being affected and jeopardised by the "large scale violations on the e-commerce platforms", which in turn affected the rights of genuine consumers.

"Balance of convenience is in favour of plaintiffs. Irreparable injury would be caused to plaintiffs, their businesses, and all those who depend on plaintiffs' successful business, such as employees, distributors/direct sellers, agents, and finally the consumers, if interim relief is not granted," the court said.

The 225-page interim order also noted that the platforms had failed to adherence to their own policies in this case, which is the minimum conduct expected of them. "Thus, this court has no hesitation in holding that the continued sale of the plaintiffs' products on the e-commerce platforms, without their consent, results in inducement of breach of contract, and tortious interference with contractual relationships of the plaintiffs with their distributors," the order read.

It added that the way these platforms operate makes it extremely convenient and easy for sellers to sell products without any quality controls. Moreover, the manner in which the three petitioners' marks, logos, company names and product images were being used was "clearly misleading to a consumer" as the sellers names were not fully disclosed. "Contact details are not disclosed. The consumer would find it extremely difficult to contact a seller. Consumers cannot be expected to do a fine and detailed examination to find out the actual source," said Justice Singh.

As per the Court's direction, only those sellers who have obtained the consent of Amway, Oriflame and Modicare will be allowed to sell their products online. The e-commerce platforms also have to display the complete contact details of such authorised sellers.

URL: <https://www.businesstoday.in/current/corporate/delhi-hc-restrains-amazon-flipkart-snapdeal-selling-direct-sellers-products-consent/story/363149.html>