

Delhi HC quotes ‘Spiderman’ while cracking down on companies such as Amazon, Flipkart

The Delhi High Court pulled up e-commerce platforms for selling health and beauty products of direct sellers such Amway and Oriflame without their consent.

The Delhi High Court has restrained e-commerce majors like Amazon, Flipkart and Snapdeal from selling health and beauty products of direct sellers — Amway, Modicare and Oriflame, without their consent.

The interim direction by Justice Pratibha M Singh came on the pleas of the three direct sellers alleging that products under their brands were being sold on the e-commerce platforms at cheaper rates resulting in financial losses to them.

They also raised apprehension that the goods may be tampered with or counterfeited. The court observed that according to the report submitted by local commissioners who inspected the warehouses of the e-commerce platforms, also including 1MG and healthkart, the conditions of the goods had been changed.

Besides, it said, the MRPs were on the higher side, there was wrong attribution of names, codes and inner seals had been tampered with and expired products were being given new manufacturing dates.

Quoting an adage — with great power comes great responsibility — which was popularised by the *Spiderman* movie, the court said 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.

It said the manner, in which these platforms operate, makes it extremely convenient and easy for sellers to sell products without any quality controls.

“The minimum conduct expected of the platforms is adherence to their own policies, which they have failed to do in the present case.

“Thus, this court has no hesitation in holding that the continued sale of the plaintiffs’ (Amway, Modicare and Oriflame) 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 court said in its 225-page interim order.

It noted in its order that the manner in which Amway, Modicare and Oriflames’ 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. “The consumer is not being told that the seller is not authorised by the consumer would, literally, require investigative capabilities to trace the actual seller,” the court added.

The judge said the facts “clearly show 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.”

The court said that the company's right to carry on business was being affected and jeopardised by the "large scale violations on the e-commerce platforms".

It said that such activities also affect the rights of genuine consumers.

"The plaintiffs have, therefore, established a prima facie case. 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.

It directed that only those sellers who have obtained the consent of Amway, Oriflame and Modicare be allowed to sell their products on the e-commerce platforms.

The court also directed the e-commerce platforms to display the complete contact details of the sellers who had obtained the consent of the plaintiffs to sell their products.

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