

News Broadcasting Standards Authority
Order No. 103 (2021)

Complaint dated 13.4.2020 by The Campaign Against Hate Speech against Times Now for the programme titled “*Is Tablighi Jamaat wilfully Sabotaging India?*” on 2.4.2020

The complaint dated 13.4.2020 against Times Now was filed before the Legal Authorised Representative and also before the State Level Monitoring Committee dated 16.4.2020 by The Campaign Against Hate Speech.

The said complaint was forwarded by PIB Fact Check Unit on 17.04.2020 to NBSA.

The complainant stated that they were filing the complaint against Times Now for breaching the recognized ethical canons of journalistic propriety and taste in their recently aired programme “*Is Tablighi Jamaat wilfully sabotaging India?*”. By doing so they were responsible for targeting and spreading hatred towards a particular community, and for violating the Programme and Advertising Codes prescribed under the Cable Television Network Rules, 1994. The following statements made during the said programme are in violation of several laws:

1. The anchor opened the programme with the accusation against the Tablighi Jamaat of being “*defiant for which India is paying a heavy price*”. The title of the programme asked if the Tablighi Jamaat were indulging in wilful sabotage.
2. The anchor continued with a stream of unsubstantiated claims and accusations, as follows:
“Appalling reports are coming in that the Tablighis while in isolation are refusing to abide by social distancing”, “they are spitting, abusing, and thrashing the frontline warriors who are attending to them”.
“Not just did they defiantly flout the call for a nation-wide lockdown and infect hundreds of people, but they are now refusing to get tested”. Even in quarantine facilities they are gathering together for prayers”; referred to Tablighis as “super-spreaders” and called for “These violators should be punished”.

No evidence whatsoever was provided to substantiate the claims regarding the actions of the attendees of the Tablighi Jamaat.

3. The anchor while interviewing panelists, asked general questions about violation of the lockdown and attacks on doctors, and then subsequently linked the responses of the panelists in a purported and sinister manner to a particular community. For instance, after speaking with a panelist regarding orders issued to handle people violating the lockdown, the anchor posed the question “*can the Jamaat be allowed to defy curfew and endanger India?*”, “*Our frontline warriors are being attacked by these handful of people who have now turned out to be super spreaders who are not ready to comply with the laws and are abusing and thrashing the*

doctors”. In this manner the anchor repeatedly targeted and vilified the community.

4. During the said programme panelists also passed disparaging comments against the community. For instance, Mr. Narendra Taneja, Spokesperson of the BJP while referring to Mr. Huzaifa Amir Rashdi stated, *“you have this Mr. Maulana coming on your channel and trying to communalise the whole thing. This is precisely what the problem is that such people are coming on various television channels, trying to communalise, because they have got their own agenda. ...they must apologise to the nation for what they have done”*.
5. Another panelist Ms. Geeta Bhatt maligned the community through statements such as *“...the whole nation is trying to cooperate, but a certain section of people.”* *“Do they have any civic sense, when these COVID19 people are coming out of that mosque and they are spitting on the roads...”*

The complainant observed that Times Now had violated basic ethics of journalism and is speaking/instigating hate against a particular community. These statements, they stated were factually incorrect as the Tablighi Jamaat program was concluded before the announcement of an official lockdown from 23.3.2020 and the subsequent imposition of a nationwide lockdown. However, due to the abrupt announcement of the lockdown, the attendees from different areas could not return home, and were forced to make alternative arrangements. Without regard for these unambiguous facts, the aforementioned statements clearly indicated that the news channel is clearly prejudiced against the community and was inciting hate against, and attacking them without painting the facts in their entirety. By attempting to portray one community as the sole responsibility-bearer for spreading the disease, Times Now had engaged in fear-mongering, and rousing communal disharmony. Such statements were a clear attempt to promote and incite hatred against communities and people on the basis of religion.

The complainant stated that by making and publishing the aforementioned statements, both the news anchor and the panelists imputed the liability to the Muslim community and their obligation to stop propagating the disease. By doing so they were not only likely to cause disharmony between the minority religion in question and other religions, but were also bound to cause ill-will between the religions. Such statements were in direct violation of the basic principles of journalism, *viz*, to verify facts before presenting a news item.

In this regard, the complaint is in reference to the flagrant violations of the following laws:

I. Rule - 6 of the Programme and Advertising Codes prescribed under the Cable Television Network Rules, 1994

II. Sections 153A, 153B, 295A, 295B, and 505(2) of the Indian Penal Code, 1860:

III. The channel has violated the Fundamental Principles in the Code of Ethics and Broadcasting Standards published by the News Broadcasters Association as further detailed below:

Section 1 - Fundamental Principles in the Code of Ethics and Broadcasting Standards of NBA:

1. Fundamental Principle 1 in as much as the broadcaster has failed to stand accountable for its actions and seek the truth and report it fairly, and with integrity and independence, as the broadcaster published several statements that were not grounded in facts, specifically regarding the dates of the Jamaat, and their apparently intentional violation of the lockdown.

2. Fundamental Principle 2 in as much as the broadcaster failed to adhere to the highest standards of public service and integrity by publishing unverified, and one-sided biased information that placed a particular community at the risk of discrimination, exclusion, and violence.

3. Fundamental Principle 4, in as much as the broadcaster failed to ensure that it does not select news for the purpose of hindering any side of a controversial public issue, and it shall not select news to promote a belief, opinion, or desire of an interest group. This tenet was violated as the news programmes had been cherry picked to support the anti-Islamic side of the controversial issue of the Tablighi Jamaat, and to promote the dominant beliefs prevailing against Muslims without any factual records.

4. Fundamental Principle 5, in as much as the broadcaster failed to recognize that the fundamental purpose of dissemination of news in a democracy is to educate and inform, so that the significance of events is borne upon citizens to form their own opinions. By imposing opinions on Muslims, their leader's behaviour, and the nature of their alleged transgression, it had provided a prejudiced picture without the complete set of facts.

5. Fundamental Principle 6, in as much as the broadcaster has completely failed to ensure a full and fair representation of the news by providing a biased perspective with unverified facts, and half-truths that were intended to misguide and misinform the viewer.

Additionally, they have violated all the principles of self-regulation in Section 2.

1. Principle 1 mandating “*impartiality and objectivity in reporting*” identifies accuracy as being at the heart of the news television business and that viewers of 24-hour news channels expect speed, but it is the responsibility of TV news channels to keep accuracy, and balance, as precedence over speed. The programme telecast by the broadcaster was totally contrary to this principle in its intent, content, purpose, tone and tenor. There is no doubt that such programme must be taken off the air, as statements were aired without any reference to impartiality and were overtly prejudiced against a particular religion. Moreover, they were clearly directed only against a particular community.

2. Principle 2 in as much as there is no “neutrality” whatsoever in the programme that was aired. The broadcaster had sensationalized the issue of the Tablighi Jamaat without any sense of restraint, and with evident prejudice against a religion. The entire programme was prejudicial, inflammatory, and crossed all boundaries of good taste and sensibility without any concern for the feelings of the religious group.

It is pertinent to note that the manner in which the programme was presented was highly objectionable and hardly a news report. Instead, it was pure conjecture and the tone, tenor and language was crass, prejudiced and disrespectful. It aimed at promoting and inciting hatred and making assertions about citizens of a particular community.

The complainant stated that these statements and videos amount to the perpetration of genocide against the Muslim community. The hatred spread by the media has destroyed and damaged the lives of ordinary people. Miscreants taking law onto their hands and forcing the general public not to buy fruits/vegetables from Muslim Street vendors; Resident Welfare Associations boycotting Muslims in their apartments and colonies; stopping Muslims from entering specific areas; preventing volunteers who are providing relief measures to the poor, because they are Muslims. The community subjected to this form of vicious hatred has been transformed from being persons to objects. This dehumanization has resulted in calls for elimination of the community and the same is nothing short of a call for genocide. The call to genocide is a violation of the right to life and personal liberty of an entire community under Article 21 of the Constitution, and needs to be dealt with strictly. The calls for social and economic boycott being made are the precursors to genocide. Hate speech which repeatedly dehumanizes an entire community, makes them targets of vigilante violence. In *Pravasi Bhalai Sangathan v. Union of India*, the Supreme Court has unambiguously stated that hate speech is an effort to marginalise individuals based on their membership to a group, that can have a social impact. Moreover, hate speech lays the groundwork for broad attacks on the vulnerable that can range from discrimination to ostracism, deportation, violence, and even to genocide. Therefore, the aforementioned news items tantamount to the perpetration of genocide and must be considered to be in violation of Article 21 of the Constitution.

For these violations the complainant demanded that the broadcaster tender a public apology along with a suspension of broadcast of Times Now for a period of 2 months.

Reply from the broadcaster:

The broadcaster vide reply dated 4.5.2020, stated that the allegations levelled against it were false, frivolous, vexatious, and hence, deserved outright rejection. The programme as the title signifies relates to a debate conducted by the channel, along with panellists namely Mr. Narendra Taneja, Spokesperson of BJP, Ms. Geeta Bhatt, Academician, Mr. Huzaifa Amir Rashdi, Honorary Secretary of AMU, Mr. Chetan Singh, Political Analyst.

The broadcaster stated that at the beginning of the programme, the byte of a medical/healthcare professional from Delhi was played out, in which he clarified that person who were living at the Nizamuddin Markaz were quarantined and posing security risks as they were not following the quarantine rules. The speaker also stated that accordingly, Delhi Police was requested to deploy additional force at all such quarantine centres. Further, there were official reports that out of the total COVID 19 cases in India, nearly 29% (on a PAN India basis) 63% (in Delhi), 84% (in Tamil Nadu), 79% (in Telangana), 59% (in Uttar Pradesh), 61% (in Andhra Pradesh) etc. were related to people who either attended the Markaz and have openly defied the lockdown rules or people who after attending went back to their hometowns. Thus, the fact that the outbreak of COVID 19 has been unnecessarily increased is backed by government reports, and it is not a claim made by the broadcaster.

Furthermore, the broadcaster stated that there had been violation of many administrative orders issued by the authorities working under the Government of India and Government of NCT of Delhi thereby endangering lives of millions of people across the country, ill-treatment meted out to the doctors/ medical staff etc. It was also pointed out that the programme does not present one-sided view but considers representations from all sects and people from different walks of life like Ms. Geeta Bhatt who is an academician, Mr. Rashdi, from AMU, and the views of all persons have been put forth.

Thirdly, and most importantly, the programme was not discussing any issues relating to a particular religion, religious class or a particular community. The programme discussed the violation by an un-registered organization namely Tablighi Jamaat of directions issued by the Government of India and put in place by the Government of National Capital Territory of Delhi.

The broadcaster stated that the reports from some of the most reliable sources suggested that:

(1) Tablighi Jamaat attracted significant public and media attention during the 2019-20 Coronavirus pandemic. Between 27 February and 1 March 2020, the movement organised an international mass religious gathering at a mosque in Sri Petaling, Kuala Lumpur in Malaysia.

(2) The Tablighi Jamaat gathering has been linked to more than 620 Covid-19 cases, making it the largest-known centre of transmission of the virus in Southeast Asia. The Sri Petaling event resulted in the biggest increase in Covid-19 cases in Malaysia, with almost two thirds of the 673 confirmed cases in Malaysia linked to this event by 17 March 2020.

(3) Most of the Covid-19 cases in Brunei originated here, and other countries including Singapore, Thailand, Cambodia, Vietnam and the Philippines have traced their cases back to this event.

(4) Despite the outbreak of Covid-19 across the globe, Tablighi Jamaat organised a second international mass gathering on 18 March in Gowa Regency near Makassar in South Sulawesi, Indonesia. Though the organisers initially rebuffed official directives to cancel the gathering, they subsequently complied and cancelled the gathering.

(5) The Nizamuddin faction of the Tablighi Jamaat held a religious congregational program in Nizamuddin West, Delhi. There was an Ijtema (congregation) in every week of March till March 21. The Delhi Government's order of 13th March, 2020 that no seminars, conferences or any big event (beyond 200 people) are to be held was apparently ignored by the organisation. There was also other violation of rules by foreign speakers including misuse of tourist visa for missionary activities and not taking 14-day home quarantine for travellers from abroad.

(6) At least 24 of the attendees had tested positive for the virus among the 300 who showed symptoms by 31.03.2020. It is believed that the sources of infection were preachers from Indonesia. Many Tablighi's had returned to their states and also provided refuge to foreign speakers without the knowledge of local governments and eventually started local transmissions especially in Tamil Nadu, Telangana, Karnataka, Jammu & Kashmir and Assam.

(7) The entire Nizamuddin West area had been cordoned off by the Police as of 30.03.2020, and medical camps had been set up. After evacuation from the Markaz, of the scores of jamaat attendees, 167 of them were quarantined in a railway facility in South East Delhi amid concerns over their safety and transmission of the virus. The Tablighi Jamaat gathering emerged as one of India's major Coronavirus hotspots in India, after 1445 out of 4067 cases were linked to attendees according to the Health Ministry.

(8) On 31.3.2020, an F.I.R was filed against Muhammad Saad Kandhlawi and others by Delhi Police Crime Branch under Section 3 (penalty for offence) of the Epidemic Disease Act, 1897, Sections 269 (Negligent act likely to spread infection of disease), 270 (malignant act likely to spread infection of disease), 271 (disobedience to quarantine rule) and 120b (punishment of criminal conspiracy) of the IPC. In view of the violations, decision was taken to cancel visas of these 960 nationals and immediately blacklist under Category “A” as per the blacklisting guidelines against the foreign travellers who came to attend the congregation on tourist visa instead of missionary visa.

(9) 25% of the total case, till the date of broadcast of the Programme, were traced to the Tablighi Jamaat, Markaz of Delhi (Till 18th April 2020, of the 14,378 COVID-19 infections reported in the country, 4,291 cases in 23 States and Union Territories were linked to the Markaz event held in Delhi according to the Union Health Ministry).

The broadcaster denied that it had violated the Cable Television Networks (Regulation) Act, 1995 and the Rules made thereunder, Section 153A, 153B, 295A, 295B, 505(2) of the Indian Penal Code, Fundamental Principles of the Code of Ethics and Broadcasting Standards. The programme by no stretch of imagination can be deemed to have outraged religious feelings of any class by insulting its religion or religious beliefs, statement creating or promoting enmity, hatred or ill- will between classes.

The broadcaster stated that the submission placed by the complainant are out of context. The programme should be viewed as a whole, and especially keeping in mind the statement made by the medical/healthcare official in the programme, who is a responsible public servant. His statement clearly portrays that the persons who attended Tablighi Jamaat Markaz were posing a problem for the health workers and defying the rules, regulations and directions framed for lockdown in India. for e.g. *‘appalling reports were coming in that the Tablighi’s while in isolation are refusing to abide by social distancing’, ‘they are spitting, abusing, and thrashing the frontline warriors who are attending to them’, ‘...refusing to get tested.’* etc. Hence, to make an allegation of non-compliance of any law prevalent in the country by the broadcaster is in itself appalling. It is on the basis of the official statements of the government, both the Central and the State government that these questions were asked by the host to the panelists. The broadcaster denied that the host of the programme asked general questions and subsequently linked the responses of the panelists in a purported or sinister manner as alleged or otherwise or at all or the host of the Programme targeted and vilified the community as alleged or otherwise or at all.

The broadcaster denied that the aforesaid statements were factually incorrect that the Tablighi Jamaat program was concluded before the announcement of an official lockdown from 23.3.2020 in Delhi, and the subsequent imposition of a nationwide

lockdown. It was denied that due to the abrupt announcement of the lockdown, the attendees from different areas could not return home, and were forced to make alternative arrangements. It was denied that the aforementioned statements indicate that the broadcaster is clearly prejudiced against the community and is inciting hate against and attacking them without painting the facts in their entirety. It was denied that by attempting to portray one community as the sole responsibility-bearer for spreading the disease, Times Now has engaged in fearmongering, and rousing communal disharmony and that these statements were a clear attempt to promote and incite hatred against communities and people on the basis of religion.

The broadcaster stated that it was unable to understand how any of the aforesaid allegations contained in the complaint amounts to referring to any community, religion, religious sect, incites communal hatred/disharmony, results in fear mongering etc. The basic ethics and journalistic principles require a responsible channel to inform the public at large about the incidents that take place, which are informed in public interest. A news channel enjoys certain basic tenets of constitutional protection enshrined under Article 19(1)(a) relating to freedom of speech and expression, and are, thus, within its right to propagate the news by ensuring that representations from all persons is available on the programme itself. While the channel enjoys the constitutional freedom, the public at large, also enjoys the constitutional freedom which is receipt of information, which is a facet of freedom of speech and expression under Article 19(1)(a). The programme thus had been disseminated in pure public interest and hence, cannot be restricted in any manner whatsoever.

Further, the broadcaster stated that it was evident that the anchor/host did not even once state that the 'Muslims' were spreading the virus or 'Muslims' were defying the lockdown as imposed. Rather a simple question was put forward by the anchor without being biased as to whether in the current situation, the Jamaatis be allowed to defy curfew and endanger India (since after several days of declaration of lockdown it was found that thousands of Jamaatis were staying in the Markaz situated at Nizamuddin in blatant violations of the letters, warnings and orders passed by the authorities without even informing the authorities about the numbers of the Jamaatis present in the Markaz for the congregation). Thus, no religious biasness or instigation of any hate against any community could be seen to have been stated by anyone during the programme as alleged or otherwise or at all.

The broadcaster stated that it was Mr. Huzaifa Amir Rashdi (Honorary Secretary, AMU), one of the panelist who brought forth the word '*Muslim*' and connected the unfortunate incident/ situation with religion, which was duly objected to by the anchor, stating that the question has been raised upon the people who were not cooperating with the administration and the medical staff and it was unfortunate to see that the question was given the face/ colour of religion by Mr. Huzaifa Amir Rashdi. Further the core issue being discussed in the Programme was with respect

to the Jamaatis/ Tablighi's who were not getting tested, misbehaving with doctors and spitting etc.

Regarding the allegation of violation of the Fundamental Principles in the Code of Ethics and Broadcasting Standards, the broadcaster stated as follows:

1. The broadcaster denied that it had failed to stand accountable for its actions and seek the truth and report it fairly, with integrity and independence; it had published several statements that were not grounded in facts, specifically regarding the dates of the Jamat, and their apparently intentional violation of the lockdown. The broadcaster stated that the impugned programme was based on actual defiance committed by the Tablighi's, the willful disobedience of the lock down orders passed by the authorities, the flouting of isolation norms, misbehaving with the medical staff, spitting out from the bus and elsewhere corroborated by video/ still footage and statements of public officials which were available in the public domain, and hence cannot be termed as unverified reports.

2. The broadcaster denied that it had failed to adhere to the highest standards of public service and integrity by publishing unverified, and one-sided biased information that placed a particular community at the risk of discrimination, exclusion, and violence. The broadcaster asserted that the impugned programme covered the Tablighi Jamat's inaction and blatant violation of the law and order which defeated the fight put forth by the Government and citizens of India and did not concern the 'Muslim community or religion' as alleged or otherwise or at all.

3. The broadcaster denied that it had failed to ensure the tenet of public service i.e., *'not to select news for the purpose of hindering any side of a controversial public issue, and shall not select news to promote a belief, opinion, or desire of an interest group'*. The broadcaster asserted that the complainant had cherry picked certain portions of the programme to support the anti-Islamic side of the controversial issue of the Tablighi Jamat, which promotes the dominant beliefs prevailing against Muslims without any factual records. Further, it stated that the broadcaster being a responsible media house was duty bound to report a burning issue of 'Tablighi Jamat' which had by its highly irresponsible behaviour endangered the lives of many in the country.

4. The broadcaster denied that it failed to recognize that the fundamental purpose of dissemination of news in a democracy is to *'educate and inform, so that the significance of events is borne upon citizens to form their own opinions.'* It is further denied that any opinion was imposed/ discussed about the Muslims. The broadcaster reiterated that the issue discussed was of Tablighi Jamat, a particular organisation who had blatantly violated the lock down rule and were responsible for spreading the virus by infecting hundreds of people in the country and not the 'Muslim community' as a whole.

5. The broadcaster denied that it failed to ensure a full and fair representation of the news by providing a biased perspective with unverified facts, and half-truths that were intended to misguide and misinform the viewer as alleged or otherwise or at all.

The broadcaster submitted that the fundamental principles in the Code of Ethic and Broadcasting Standards were framed so as to regulate the contents of the broadcasters in order to provide impartiality and objectivity in reporting. The impugned programme had merely criticized the offenders who during such a critical situation had not only violated the orders passed by the Central/ State Government but had also ill-treated the frontline warriors like doctors who were treating them. Nowhere in the program did any panelist or the anchor demonstrate any hate speech or any criticism against Muslims community or religion, except discussing the Jamaat who had blatantly violated the lock down rule and were responsible for spreading the virus by infecting hundreds of people in the country and thus, it cannot be held that the programme was violative of any fundamental principle or principles of self-regulation.

The broadcaster stated that having aired/ published the programme, from no angle can the aforesaid reporting be considered to be promoting enmity against any religion or insulting any religion and that only amounts to exercise of right of the broadcaster guaranteed under Article 19(1)(a) of the Constitution of India, which is to relay news to the citizens of this country. The broadcaster only conducted and telecast a programme on the burning issue which constitutes fair reporting in good faith and for public scrutiny.

The broadcaster denied that the programme telecast was totally contrary to the concept of impartiality and objectivity in reporting, neutrality in view of the aforesaid facts and circumstances. It was further denied that there was no “neutrality” whatsoever in the programme that was aired and had sensationalized the issue of the Tablighi Jamaat without any sense of restraint, and with evident prejudice against a religion. It was denied that the entire programme was prejudicial, inflammatory, and crossed all boundaries of good taste and sensibility without any concern for the feelings of the religious group. The broadcaster reiterated that the programme did not target the Muslim community/ religion and was critical of only the Tablighi Jamaat which had created ruckus and was responsible for the increase in the number of COVID-19 positive patients in the country, thereby endangering lives of many.

It was further denied that these statements and videos amount to the perpetration of genocide against the Muslim community and that the hatred spread by the media has destroyed and damaged the lives of ordinary people. It is incomprehensible that how unknown/ unverified callous allegations can be made without any basis about miscreants taking law onto their hands and forcing the general public not to buy fruits/vegetables from Muslim street vendors; Resident Welfare Associations

boycotting Muslims in their apartments and colonies; stopping Muslims from entering specific areas; preventing volunteers who are providing relief measures to the poor, because they are Muslims, could even be remotely attributed to the broadcaster without any basis whatsoever.

The broadcaster denied that the community subjected to this form of vicious hatred has been transformed from being persons to objects. It was further denied that the alleged dehumanization has resulted in calls for elimination of the community and the same is nothing short of a call for genocide. It was denied that the aforementioned news items tantamount to the perpetration of genocide, in violation of Article 21 of the Constitution. The broadcaster submitted that the judgment of the Hon'ble Supreme Court cited by the complainant was not applicable to the present facts and circumstances of the case for the reasons mentioned hereinabove and thus cannot be relied upon.

The broadcaster stated that it is not denied that the media has an additional responsibility in the time of the pandemic, however it is vehemently denied that the manner in which Times Now had conducted itself, had put people at larger risk. The World Health Organisation message dated 18.3.2020 as cited in the reply was wholly irrelevant to the facts and circumstances of the case as no particular ethnicity or nationality was being held responsible for Covid-19 since it is a world-wide pandemic. The core issue in the present case was of violation by Tablighi's, of many administrative orders issued by the authorities working under the Government of India and Government of NCT of Delhi thereby endangering lives of millions of people across the country, ill-treatment meted out to the doctors/ medical staff etc. by them, thus the broadcaster was appalled to see as to how the Tablighi's after endangering the lives of millions can be allowed to play the victim card. That it is settled law that the media and press should not be unnecessarily restricted in their speech as the same may amount to curtailment of expression of the ideas and free discussion in the public on the basis of which a democratic country functions. It has been held by the Hon'ble Supreme Court that freedom of speech and expression includes freedom of propagation of ideas and that freedom is ensured by the freedom of circulation, without which the publication would be of little value. The Hon'ble Supreme Court has also held that the liberty of the press is an essential part of the right to freedom of speech and expression and that this liberty consists of allowing no previous restraint upon publication. That apart from their right to disseminate, to the public at large, the citizens of India have the right to know about the current affairs of the country, and the right to know, is also another aspect of free speech and democracy. That the freedom of speech and expression includes the right to hold opinions without interference and to seek, receive and impart information and ideas to any media and regardless of frontiers. It has been observed by the Hon'ble Supreme Court of India that when the freedom of expression is put to use by the mass media, it requires additional dimensions and becomes freedom of information. It has been held that the constitutional guarantee of freedom of

speech is not so much for the benefit of the press as it is for the benefit of the public. The freedom of speech includes within its compass the right of all citizens to read and be informed. The Programme was one such criticism, and a fair one. The framers of our Constitution recognized the importance of safeguarding the right under Article 19(1)(a) since the free flow of opinion and ideas is essential for the collective life of the citizenry.

In fact, freedom of speech has always been considered to be the quintessence of every democracy. The doctrine of free speech has evolved as a bulwark against state's power to regulate speech. In fact, Law Commission of India in its recommendation-2017 on the Impact of Hate Speech on Freedom of Expression has observed to the following effect:

“Free speech has always been considered to be the quintessence of every democracy. The doctrine of free speech has evolved as a bulwark against state's power to regulate speech. The liberal doctrine was a measure against the undemocratic power of the state. The freedom of expression was one of the core freedoms that were incorporated in the Bill of Human Rights. The greater value accorded to the expression, in the scheme of rights, explains the reluctance of the law makers and judiciary in creating exceptions that may curtail the spirit of this freedom. Perhaps, this is the reason behind the reluctance in defining hate speech”.

The broadcaster denied that the aforesaid reporting amounts to promoting enmity between different groups on ground of religion, deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs and statement creating or promoting enmity, hatred or ill-will between classes or that it has violated any provision of Indian Penal Code, 1860, Cable Television Network Rules, 1994 or Fundamental Principle or Principles of self-regulations.

The broadcaster stated that the programme was a debate on the issue of national importance wherein participants from different factions, were invited to bring and share different perspectives before the public for a matter of public interest. During such discussion, all participants put forth their views on the issue, including the anchor who was responsible to bring out different perspectives on an issue of national importance by seeking explanations and posing questions that bring out the entire perspective fully, before the viewers. Such types of debates on various national topics/ issues are conducted regularly by almost all TV news channels in the country. However, the intent of the channel or its anchor in presenting such debates was not to defame any person, cause hatred between community or religion or cause prejudice to any person/ entity but to bring true, complete and varied facts/information to the knowledge of Indian citizens.

Further, the programme was merely reflective of the various facets of the topic being reported upon and must not be viewed in isolation but in the overall context of the subject being discussed. The reporting done was factually correct and of public

importance, thus there is no prejudice caused to any specific community or religion much less the Muslim community under any circumstances whatsoever. The complaint under reply is nothing but a threat to engage the broadcaster in false and frivolous proceedings.

Rejoinder dated 21.5.2020 from the complainant to letter dated 4.5.2020 Procedural lapses by Times Now

The complainant stated that while forwarding the complaint on 17.4.2020 NBSA made it amply clear that the above documents, including the response to the complaint, were to be filed within 7 days of receipt of the communication “to the undersigned only”, namely, NBSA, in order for it to determine the matter. However, in stark contradiction to the directions of NBSA, the reply has been addressed to the Campaign Against Hate Speech (hereinafter referred to as “Complainant”). Such an action is in direct violation of the procedure prescribed by the determining authority in its notice to Times Now dated 17.04.2020, and is further in violation of the procedure enumerated in Regulation 8.10 of the News Broadcasting Standards Regulations permitting the broadcaster (Times Now) to submit a written statement to the Authority in reply to the notice provided by the Authority, within 14 days of such notice, the time period of which has lapsed in the present case, from 17.04.2020 (date of notice from the NBSA) to 04.05.2020 (date of Reply). Therefore, the Reply must be rejected in its entirety for violating the procedure prescribed by NBSA.

Locus Standi of the Complainant

The reply contests the legal status and constitution of the complainant in addressing the complaints and questions “*how is the Campaign Against Hate Speech affected by the Programme*”. The complainant submitted that as per NBSA Regulations 1.5, any aggrieved association of persons may make a complaint against a member broadcaster. Therefore, the specific reservations in the reply to the standing of the complainant and its authority to make a complaint, are entirely ill-founded and must be dismissed.

Reply on Merits

The complainant stated in addressing the reply to the complaint on merits regarding the impugned Programme “*Is Tablighi Jamaat Wilfully sabotaging India | Nation Wants to Know*” aired by Times Now on 2.4.2020 (hereinafter referred to as “Programme”), it has been stated that the Programme was merely a debate conducted by the channel, and that at the beginning of the Programme, “the byte of a medical healthcare professional from Delhi is played out, in which it is clarified that persons who were living at the Nizamuddin Markaz were quarantined and posing security risks as they were not following the quarantine rules.” However, several objectionable and biased statements were made by the Anchor before the medical professional began speaking at 1:03, such as the TablighiJamaat being “*defiance for which India is paying a heavy price*”, “*appalling reports are coming in that the*

Tablighis while in isolation are refusing to abide by social distancing”, “they are spitting, abusing, and thrashing the frontline warriors who are attending to them”, “not just did they defiantly flout the call for a nation-wide lockdown and infect hundreds of people, but they are now refusing to get tested”. Moreover, the programme itself is prejudicially implying that the Tablighi Jamaat might be “wilfully sabotaging India”. Such statements were not mere factual presentations backed by the medical professional in a debate conducted by the channel, but were evidently biased and one-sided statements that were meant to portray the Tablighi Jamaat in a disparaging light without referring to the facts in their entirety.

The reply also stated that there are official reports stating that out of the total COVID 19 cases in India, nearly 29% on a PAN India basis, 63% (in Delhi), 84% (in Tamil Nadu), 79% (in Telangana), 59% (in Uttar Pradesh), 61% (in Andhra Pradesh), were related to people who either attended the Markaz and have openly defied the lockdown, or attendees who returned to their hometown. The reply attempted to justify the assertions against the Tablighi Jamaat in the programme on the basis of these statistics. However, these official reports of the Government with the statistics referred to in the reply were only released on 18.4.2020, well after the programme aired on 2.4.2020, and were irrelevant to the prejudiced statements that were half-truths and unverified at the time at which the programme was aired. In fact, official government statistics regarding 25%, as claimed in the programme, of the COVID-19 positive cases in India being linked to the Tablighi Jamaat were released only on 4.4.2020, when the Programme itself was aired on 2.4.2020. Therefore, it cannot be said that the anchor based her statements on official reports, that due diligence of a reporter has to be judged based on the available official information at that time, and that using subsequent official reports to demonstrate due diligence is a clear attempt to mislead the authorities.

Additionally, official reports stated that as of 1.4.2020, only 358 out of 2000 confirmed Covid-19 cases were linked to the Markaz. Therefore, the fact that the outbreak of Covid-19 had been “unnecessarily increased” was not backed by government reports, and was merely an unsubstantiated claim made by Times Now in its programme.

The reply alleged that, “*there have been violation of many administrative orders issued by the authorities working under the Government of India and Government of NCT of Delhi thereby endangering lives of millions of people across the country, ill-treatment meted out to the doctors, medical staff etc.*”. However, such assertions failed to portray facts in their entirety, and were cherry-picked to suit a discriminatory narrative. It is evidenced by several reports and official communications, that the Tablighi Jamaat event ended before the imposition of a nationwide lockdown on 24.3.2020 and the Janata Curfew on 22.3.2020 made it virtually impossible for the Jamaat members to leave the Markaz. This must be viewed as a chain of events, with the Union Ministry of Health and

Family Welfare's official position as of 13.3.2020, that the "coronavirus is not a health emergency".

Vide order dated 16.3.2020 the Government of NCT Delhi banned religious gatherings beyond 50 members. Thereafter, when the Tablighi Jamaat attempted to move out of the premises, it became extremely difficult to do so on account of the Janata Curfew and the subsequent imposition of a lockdown, despite the attendees of the Jamaat having approached the police for help. Therefore, without portraying the facts in their entirety, the programme had evidently failed to verify facts, portray facts without any prejudice or inclinations, report unbiasedly, and has instead promoted the vicious narrative against a religious community.

The reply further stated that "some of the most reliable sources" suggest certain facts, but failed to provide any sources or evidence of such facts. In specifically addressing certain baseless allegations paraded as facts, it has been stated at point that "it is believed the sources of infection were preachers from Indonesia". However, evidence suggests that several tests of the Indonesians who had attended the Markaz turned up negative. Even so, it has nowhere been conclusively demonstrated by the Government that the source of the Covid-19 spread in India was the Indonesians attending the Markaz, as the virus was spreading independent of and prior to the Tablighi Jamaat event. Therefore, for the reply to rely on such allegations and attempt to paint the programme in an objective light is both wholly misconceived and untrue.

As a news channel, the onus falls on Times Now to broadcast only the most verified news in an objective manner without sensationalizing the issue, or painting it in a communal light. Moreover, the complaint has sufficiently demonstrated the manner in which the programme insulted and belittled the Muslim community.

The usage of the term "*willfully sabotaging India*" attributed *mens rea* to members of the Tablighi Jamaat, and gave the impression that the members were deliberately attempting to spread Covid-19, without any evidence whatsoever.

The broadcaster stated that the complainant must take the programme in its entirety, and relied heavily on the statements of the medical professionals to justify the assertions made by the programme regarding "*appalling reports are coming in that the Tablighi's while in isolation are refusing to abide by social distancing*", "*they are spitting, abusing, and thrashing the frontline warriors who are attending to them*", "*...refusing to get tested.*" However, the medical professionals in the programme (who was not named in the programme and whose authority is unknown to the viewers), merely stated that, "*We are facing problems because many of them don't think they needed admission, why are they here, why are they not being released, why doctor is not attending them every hour, why lot of medicine is*

not being given to them, some people are also objecting why are we testing them. So, this has brought our security situation also under some kind of risk, so I have requested my health secretary for an extra deployment of Delhi police personnel, which she did. We have got now police all around our 3 blocks in which we are keeping these patients.” Such statements were played alongside visuals that merely appear to be medical professionals disinfecting or inspecting persons/areas, and did not in any manner corroborate the claims made by the anchor. Therefore, the reply was wholly misconceived in relying on the medical professional’s statements to justify the allegations made in the programme that were meant to vilify the Muslim community.

The complainant stated that the reply denied several facts, such as the Tablighi Jamaat ending before the announcement of a nationwide lockdown, the circumstances which presented the attendees, and that Times Now has engaged in communal hate-mongering. However, it is inconceivable that objective facts may be denied in such a manner, as several rounds of fact checking by both the media as well as official state agencies (such as the Chhattisgarh State fake news monitoring cell) have unambiguously indicated that the allegations of spitting and attacks on health-workers by the Tablighi Jamaat attendees were fake news.

The complainant stated that the Tablighi Jamaat event ended before the imposition of a nationwide lockdown on 24.3.2020, and that 1500 persons vacated the Markaz on 23.3.2020, were undisputed facts, and cannot be the subject of denial in the reply. Moreover, the event itself must be borne in the context of the Union Health Ministry’s official stance as late as 13.3.2020 when the Jamaat event was being conducted, that the coronavirus does not constitute a health emergency. Further, the Tablighi Jamaat leaders had from 21.3.2020 – 23.3.2020 sought the help of the police to seek assistance in vacating the premises in light of the nationwide lockdown that had effectively neutralised transportation services in the state. Therefore, without having duly engaged with these facts and portrayed the chain of events in their entirety, the programme must be considered biased, communally charged, and published without due verification.

The complainant stated that the broadcaster in its reply addressed the freedom of speech and expression and the right to information contained in Article 19(1)(a) of the Constitution. However, such a constitutional right is not unbridled, and is subject to the limitations contained in Article 19(2) and to the provisions of law protecting persons and vulnerable communities from hateful speech. The Hon’ble Supreme Court has observed in no compromising terms in *Yashwant Sinha v. Central Bureau of Investigation*, that the Press, including visual media, cannot be biased and yet free. Moreover, transmitting biased information betrays absence of true freedom, and is an unjustifiable onslaught on the vital right of the people to truthful information under Article 19(1)(a), which is a bedrock of several other rights of citizens. In observing so, the Court noted that the freedom of the Press is no higher than this right of the citizens to receive unbiased information under Article 19(1)(a), which is

the ability of truth to be recognised by a discerning public in the free market of ideas is the very basis for the grant of unquestionable freedom to the Press. Therefore, it must be borne in mind that while the Press contains certain freedoms under Article 19(1)(a), these are subject to the dissemination of unbiased information to the citizenry, the restrictions contained in Article 19(2), and the laws duly promulgated by Parliament. The reply has untenably placed the actions of the Press above and beyond this constitutional mandate.

The complainant stated that it is misdirecting to state in the reply that the anchor made no reference to Muslims and cannot therefore be held liable for religious bias. However, having made several biased statements against the Tablighi Jamaat, which was a gathering of Muslims for a religious congregation, the imputations against the Jamaat were a direct assault on it in its nature as a Muslim religious gathering. The Tablighi Jamaat (Society of Preachers) was founded by a Deobandi Islamic scholar Muhammad Ilyas AlKandhlawi in Mewat, India, in 1926. As its name suggests, Al-Kandhlawi's goal was to establish a group of dedicated preachers. Therefore, this can be understood as a religious sub-group. Therefore, direct reference to "Muslims" is not required to attract the relevant provisions of the Indian Penal Code.

**Reply dated 8.6.2020 to the rejoinder dated 21.5.2020 from the complainant
Procedural lapses by Times Now:**

The broadcaster stated that the complaint dated 13.4.2020 was filed with the NBSA on 16.4.2020 and received by e-mail from NBSA on 17.4.2020 around 2:08 pm. Given the pandemic situation and lockdown restrictions, there was an unintended and unavoidable delay on the broadcaster's part in accessing the necessary information and inputs for drawing up the reply dated 4.5.2020. However, as soon as practicable, the reply was drafted, discussed and finalized and accordingly filed on 4.5.2020, without any further delay. In any case, no prejudice was caused to the alleged complainant by filing the reply on 4.5.2020. Secondly, the complaint dated 13.4.2020 is addressed to the broadcaster and in copy, the same complaint had been sent to the Hon'ble Authority. Hence, it was wrong to suggest that the response dated 4.5.2020 ought to have been addressed to the Hon'ble Authority only. The response had been sent to all the persons and authorities, who were involved and/or copied in the complaint dated 13.4.2020. Furthermore, under the NBSA Regulations, a two-tier redressal system has been formed, one at the level of the legal authorized representative of the broadcaster and other at the level of NBSA. While the complaint dated 13.4.2020 has been filed with the legal representative of the broadcaster, no time to deal with the same was given to the broadcaster and directly a complaint was sent to this Hon'ble Authority. In fact, on that count itself, the complaint of the addressee ought to be dismissed without any further reference.

2. Locus Standi of the Complainant:

The broadcaster stated that the complainant here is an unregistered organization (without any constitution) allegedly consisting of group of concerned activists, parents, lawyers and academicians allegedly working to combat hate speech etc. It failed to disclose as to how it was aggrieved by the programme aired by the broadcaster, nor has it been disclosed as how it's alleged members are aggrieved by the said programme, which was aired on 2.4.2020. Use of the words 'any person aggrieved' in the procedure provided for complaint redressal has a direct bearing to the 'programme' of which the person complains of being aggrieved i.e. an unfair treatment which is complained of. It is clear that there is no unfair treatment meted out to the complainant, nor has it been alleged. Hence, on this basis itself, this complaint is liable to be dismissed.

The broadcaster stated that various objectionable stanzas, and statements taken out in the reply have to be out rightly rejected, and are not being dealt with separately. The stanzas and statements have to be understood in the context of the programme aired and the topic involved. There was absolutely nothing about any religion or a community. It is about an act which led to an unfortunate increase in the number of Covid 19 patients in the country. In fact, the percentages, which come out of official reports, vindicates the stand of the broadcaster. The programme has nowhere mentioned the percentages. The said percentages, in fact, go to show that even on 2.4.2020, when the programme was aired, the Covid 19 infections rose substantially because of the acts of members of the Markaz, and this stand was vindicated by the official reports. Hence, the stand taken in the programme cannot be treated as a wrong or false stand. This shows that the programme was backed by reliable sources who had provided reliable information basis which the programme was aired.

The broadcaster stated that there was no doubt that the Markaz event took place prior to the date when the lockdown was announced. Apart from the event itself, it is the number of persons (admittedly more than 2500) who were staying at the Markaz, many of whom were allegedly not following the social distancing and other lockdown norms, which became an issue to handle during these tough times. In addition to the surge in infected cases by persons who attended the event, the other major issue was in creating and providing quarantine facilities on urgent basis for such 2500 persons.

The broadcaster denied that the programme attributed *mens rea* in any manner whatsoever. The objective of the said programme was to merely raise pertinent issues and questions following the Markaz event and the incidents that followed. This was discussed in a news debate programme and by no means can be termed intentional in any way. As a news medium it was a significant event that needed to be discussed and reported on.

The broadcaster stated that regarding reports of spitting by few of the Tablighi Jamaat members and attacks on the health workers, that information on such incidents were received from across the country. Few of the quarantine centres that housed the Markaz attendees for the purpose of testing and quarantine, due to the surge and spread in cases, had allegedly reported incidents of misbehaviour with the hospital and health care workers. This was reported widely across news platforms in the country, being a significant issue during this pandemic. The programme, nowhere, claimed that each and every quarantine centre had to deal with such issues. However, there were substantial reports of such non-cooperation which were highlighted.

The broadcaster stated that the judgments referred to have no bearing on the facts of the present case and will be dealt with at the relevant time.

The argument made out that referring to the gathering of the Tablighi Jamaat was a direct assault on the Muslim community is totally baseless and wrong. The programme merely dealt with the actions of the Jamaat members and had not in any manner linked it to any religion or community, let alone the Muslim community in India.

The allegations related to violation of Rule 6 of the Programme and Advertising code under the Cable Television Networks Rules, 1994 or of Section 153 A, 153B, 295A, 295B, and 505 (2) of the Indian Penal Code, of the Fundamental Principles in the Code of Ethics and Broadcasting Standards are unfounded and have no basis whatsoever. Thus, the same are denied.

The broadcaster reiterated that the programme in question merely highlighted the situation as it presented itself on April 2, 2020. Based on reports and information received from reliable sources, the programme put out a debate on a very critical and important subject, namely the surge in infections following the Markaz event and the conduct of some of the Jamaat attendees across the country. The programme did not, intentionally or otherwise, refer to any particular religion as alleged or otherwise or at all. These reports were widely reported across media platforms in the country and the broadcaster being a responsible national news medium raised pertinent questions and invited panelists to debate on the same. Some of the reports appeared around the same time on various news channels, newspapers, etc. the links of which were provided by the broadcaster.

Decision dated 10.7.2020

NBSA at its meeting held on 10.7.2020 considered the complaint, responses from the broadcaster, rejoinder from the complainant and also viewed the broadcast. NBSA was of the prima facie view that the broadcaster had violated the Fundamental Principles of Impartiality, Objectivity and Neutrality in reporting and also the Guideline No 9 relating to Racial & Religious Harmony, which states that

“Racial and religious stereotyping should be avoided” and “Caution should be exercised in reporting content which denigrates or is likely to offend the sensitivities of any racial or religious group or that may create religious intolerance or disharmony.” NBSA decided that the complainant and the broadcaster be called for a hearing at the next meeting of the NBSA.

Hearing scheduled on 22.9.2020 was postponed to a later date.

Hearings held on 9.10.2020

The following persons were present at the hearing:

Complainant: **The Campaign Against Hate Speech represented by**
Ms Shilpa Prasad, Advocate
Ms Manavi Atri, Advocate

Broadcaster: **Bennett, Coleman & Company Limited**
Mr. Kunal Tandon – Advocate
Ms. Jyothi Suresh Kumar – Compliance Officer NBSA

Submissions by the Complainant

The complainant stated that statements such as *“Tablighi Defies India”* are clearly aimed at vilifying the Muslim community by placing the sole responsibility on them for the spread of Covid-19 in the country, portraying them as persons who have defied the country. Such statements are in violation of the Fundamental Principles 5 and 6 of the Code of Ethics and Broadcasting Standards, that state that the purpose of news is to educate and inform, so that people in the country may come to their own conclusions, and that broadcasters shall ensure full and fair representation of the news, ensuring that controversial subjects are fairly represented. Moreover, Principles 1 and 2 of the Principles of Self-Regulation, require impartiality and objectivity in Reporting, and to ensure neutrality. It is clear from the programme that its contents and associated texts were targeted at a particular community, without adhering to standards of objectivity and impartiality.

The programme was filled with unsubstantiated statements that targeted one minority community which violated the Code of Ethics and Broadcasting Standards as follows:

1. Specific Guidelines on Covering Reportage and Programme and Advertisement Code has been violated in the course of the programme in the following manner:

Fundamental Principle 1 - Broadcasters shall in particular ensure that they do not select news for the purpose of either promoting or hindering either side of any controversial public issue. News shall not be selected or designed to promote any particular belief, opinion or desires of any interest group.

Violative content: The anchor of the programme, stated, “It’s the defiance for which India is paying a heavy price now. Around 25% of the total number of positive cases in India have directly been traced to the religious congregation to the Tablighi Markaz in the national capital. Not just did they defiantly flout the call for nationwide lockdown and infect 100s of people, but they are now refusing to get tested. And appalling reports are coming in that the Tablighis while in isolation refused to abide by social distancing, those visuals on the screen are a proof of how norms are still being violated. In fact the railways complained that those in isolation wards are abusing and even spitting at doctors and their staff. Delhi’s LNJP hospital has appealed to the government for additional security as the Tablighis refuse tests and try to skip quarantine. Now while the manhunt continues for those still in hiding, can the Jamaat be allowed to defy curfew and endanger India?”.

“Rashid sir it is unfortunate, what you are saying right now. Because the antidote will come when it comes, but before that we have to atleast stop it. This is why the question is being raised on “super spreaders”, but you are attaching this to religion.”

The statements made by the broadcaster were selected for the specific purpose of promoting the controversial issue regarding the Tablighi Jamaat, as the programme misrepresented facts regarding the members of the Jamaat, and intentionally vilified the Muslim community by publishing patently false information alleging that they abused and spat at doctors, or tried to skip quarantine. Several reports have demonstrated that no such incidents have occurred, and that the media coverage of the Jamaat was rife with fake news and allegations meant to promote hatred against Muslims. The source of such information about spitting and abusing is unknown, and are not a fair and unbiased portrayal of information on the issue.

Fundamental Principle 2 in as much as the broadcaster has failed to adhere to the highest standards of public service and integrity by publishing unverified, and one-sided biased information that places a minority community at the risk of discrimination, exclusion, and violence.

Fundamental Principle 4, in as much as the broadcaster has failed to ensure that it does not select news for the purpose of hindering any side of a controversial public issue, and shall not select news to promote a belief, opinion, or desire of an interest group. This tenet has been violated as the news programmes have been cherry picked to support the anti-Islamic side of the controversial issue of the Tablighi Jamaat, and promotes the dominant beliefs prevailing against Muslims without any factual records.

Fundamental Principle 5, in as much as the broadcaster has failed to recognize that the fundamental purpose of dissemination of news in a democracy is to educate and inform, so that the significance of events is borne upon citizens to form their own opinions. By imposing opinions on Muslims, their leader’s behaviour, and the nature of their alleged transgression, the broadcaster is providing a prejudiced picture without the complete set of facts.

Fundamental Principle 6, in as much as the broadcaster has completely failed to ensure a full and fair representation of the news by providing a biased perspective with unverified facts, and half-truths that are intended to misguide and misinform the viewer.

Principle 1 of Self-Regulation mandating “impartiality and objectivity in reporting” identifies accuracy as being at the heart of the news television business and that viewers of 24-hour news channels expect speed, but it is the responsibility of TV news channels to keep accuracy, and balance, as precedence over speed. The programme telecast by it is totally contrary to this principle in its intent, content, purpose, tone and tenor. There is no doubt that such programmes must be taken off air, as statements such as those listed earlier are aired without any reference to impartiality and are overtly prejudiced against a particular religion. Moreover, they are clearly directed only at the Muslim community, and are not impartial or objective in any manner.

Principle 2 of Self-Regulation in as much as there is no “neutrality” whatsoever in the programme that was aired as the broadcaster has sensationalized the issue of the Tablighi Jamaat without any sense of restraint, and with evident prejudice against a religion. The entire programme was prejudicial, inflammatory, and crossed all boundaries of good taste and sensibility without any concern for the feelings of the religious group.

Specific Guidelines Covering Reportage that specifically enshrines Guideline 9 as Racial and Religious Harmony is affected by the means of stereotyping. The broadcaster has aired footage showing Muslims allegedly from the Jamaat moving in a group in the quarantine centre. In showing footage at 0:17 of “*spit at doctors*”, the visuals shown are merely of persons in a bus. The impact on the religious harmony can be observed from the comments made on the video of this program on YouTube, such as “*Every Muslim has only one thing in mind Islamic state of India*”, “*Wake up. Tablighi’s are carrying out a planned genocide.*”, and “*This is a jihad hope everyone will open their eyes in India*”, and “*Markaz Attendees are Corona (Covid-19's) Suicide Bombs. A Well-Planned Conspiracy by Mullahs, Maulvis And Khujalee Wala (Kejriwal Delhi CM) Against India. Jai Jawan Jai Kisan Jai Bharat IN*”. Such specific link of the Tablighi Jamaat to the Muslim community to blame them for the spread of a virus is in gross violation of the Specific Guidelines Covering Reportage, Guideline 9 stating Racial and Religious Harmony. The images displayed in the background of anchor are stereotypical and unverified.

The complainant drew the attention of the NBSA to its Advisory on Editorial Responsibility dated 13.10.2011 which states:

“After due deliberations, the Authority has opined that such stand by a news channel is completely unacceptable and shall not be countenanced; and that it be made clear to member broadcasters that for the Authority, the ultimate responsibility for all editorial content shall lie with the editorial head of the news channel, by whatever designation called. Accordingly, all member broadcasters are advised to take note of it.”

Thus, the broadcaster cannot shirk responsibility by claiming that the Programme was merely debate with the panelists.

The usage of the words, “*super spreaders*”, is a direct hyperbole violating the *Advisory on Use of Adjectives & Hyperbole, issued on 8.5.2012* that specifically states that “4. News channels should desist from using “adjectives” which colour verified facts/news with personal opinions of journalists, such as by use of the words “tainted”, “killer”, “cheat” etc.” Moreover, referring to the community as “*super spreaders*” is a specific attempt to promote hatred against the community, and create a national discourse against the Tablighi Jamaat, and thereby, the Muslim community. Such terms are an attempt to place the entire blame for the spread of Covid-19 on particular persons, and hold them responsible for any consequences thereon.

By airing this nature of unverified derogatory content depicting visuals of Muslims entering premises, moving in a group, and in their quarantine centres, the broadcaster has blatantly disregarded the Advisory on Reporting Covid 19 Crisis dated 1.4.2020 issued by this Authority that states, “*The issue that the Hon’ble Supreme Court has touched upon relates to “fake news” whether intended or not, published either by electronic, print or social media which will cause panic in the society. The Hon’ble Court observed that the media should maintain a strong sense of responsibility and ensure that unverified news capable of causing panic is not disseminated.*” Contrary to this, the broadcaster makes several claims about the actions of the Tablighi Jamaat attendees, stating that they have abused, spat on and violated the lockdown (when in fact the lockdown was imposed after the Tablighi Jamaat concluded, before 23.3.2020).

The complainant submitted that irrespective of several advisories and guidelines issued by this esteemed Authority to the broadcasters for the purpose of having the role of the news media is to soberly report news in a fair and balanced manner, by providing adequately verified information in order to help the public form opinion on various issues; the broadcaster in violation of this guideline has broadcast news in a manner which is completely biased and blaming one particular religious community for the entire pandemic. This is evident from the fact that the broadcaster has been targeting and dehumanizing the Tablighi’s for being part of a large gatherings and thereby being exposed to the possibility of spread of Corona virus. However, there have been several more instances of large gatherings in the country, which the broadcaster has not reported on. This clearly showed the reporting of the broadcaster was biased towards one particular community or subgroup within the community.

Some of the other large gathering included in the first week of April, when the media was busy outraging against the Tablighi Jamaat, devotees thronged temples across Bengal to observe Ram Navami. Shortly after the Nizamuddin event, thousands of Hindu devotees reportedly crowded prominent temples in Gujarat. After toppling the Congress government in Madhya Pradesh, BJP's Shivraj Singh Chouhan held a public ceremony to take oath as the Chief Minister in March. Another large gathering reported by other channels was the on the occasion of International Women's day (March 8), the Presidential Palace in New Delhi organized an award ceremony, inviting a large number of people, including prominent public figures.

The complainant submitted that the Hon'ble Authority has the function under Regulation 6.2. to maintain and improve standards of broadcasting, ensure compliance with high professional standards and adherence to the Code of Conduct, and ensure maintenance of high standards of public taste. It is thus prayed before this Hon'ble Authority to ensure strict compliance by the broadcaster with high professional standards in all its broadcasts. In view of these undeniable violations, the complainant sought appropriate action against Times Now.

The broadcaster in its submissions stated that at no point of time had it either criticized or defamed Muslims and showed disrespect to any religion, or anybody's faith or belief. The channel has always taken due care to abide by the prescribed guidelines and the Programme Code applicable to the broadcast media. There is no dereliction of duties on the part of the channel. No malafide intention can be attributed for airing the impugned story/ telecast. The news reports on alleged incidents of inappropriate conduct were reported on the channel purely in public interest, as the subject matter was significant in view of the pandemic situation prevalent in the country at the relevant time i.e. on 2.4.2020. It was aired on the basis of the information available at that point of time.

Broadcaster further stated that Dr. J. C. Passey, Medical Director, Lok Nayak Jai Prakash (LNJP) Narayan Hospital – a premier medical institution under Delhi Government spoke at the start of the debate, so that the views of the medical staff is available. He confirmed in the debate, that the persons who have been put in the quarantine centers were questioning as to why they were being tested, etc., and sensing security concerns, additional security around the premises was sought from the Delhi Police. The broadcaster has not targeted a particular community or religion as alleged by the complainants. The channel has also covered stories on other religion/community, specifically regarding violation of lockdown norms during the pandemic. For eg., the story on Karnataka's Ramnagara district where hundreds thronged a religious temple fair in violation of lockdown guidelines. Therefore, no communal angle, hatred or selective reporting can be asserted by the complainant against the channel. There was no intention to hurt or demean any particular

religious belief. The complainants' allegations that the broadcaster had not covered certain stories is denied. Various stories which have covered violations of the lockdown rules by other religious sects were telecast by the channel from time to time and some of them are available at links provided.

The broadcaster stated that so far as the use of the word "*super spreaders*" is concerned it was stated that those particular people who attended the Markaz and had openly defied the lockdown rules or people who after attending went back to their home towns which resulted in the initial spread of the Covid 19 cases in India were described as such. The term "*super spreaders*" is primarily a medical term, and is used to describe persons, and events that contribute to the spreading of an infectious disease like the Covid 19. Thus, the term refers to both persons who attended the Markaz, and the event which was conducted at the Markaz, as it involved large gathering of people. The term "*super spreaders*" has been consistently used by various national as well as international media also, while defining various events. NDTV defined the children's exam directed to be conducted as a "*super spreaders*" event. Thus, the use of the word "*super spreaders*" in relation to the Tablighi Jamaat was contextual and not intended to target any community. Some of the news reports where the word "*super spreaders*" has been used were submitted along with the links. Additionally, the term "*super spreaders*" is also used to define a medical instance of an individual or an event which is highly contagious and capable of transmitting a communicable disease to an unusually large number of uninfected individuals. A super-spreader, usually identified in retrospect, has a greater than average propensity to infect a larger number of people. "*super-spreading*" is connected to the scientific nature of the virus and the way it manifests in some humans. "*Super-spreading*" is, therefore, a product of biological, behavioural and environmental factors. It was further stated that the object and context of the programme can be understood only by viewing the programme in totality and not by picking and choosing words and sentences out of context and reading them in literal sense, as has been done by the complainants.

The programme was not intended to polarize citizens nor to spread negative propaganda, nor to encourage violence against any class of people in the country/ society. Most pertinently, it needs to be viewed that the anchor, in the entire debate, does not refer to the discussion targeting any religious community like Muslims. In fact, the first reference to the religion also comes from the representative of AMU. The anchor of the debate had rightly intervened when this panelist (representing the AMU) unnecessarily brought in the religious angle and was trying to make it a communal issue. The core of the debate was to discuss how lockdown norms were blatantly violated by a group of people (who at that instance happened to have attended the Markaz in large numbers) and how such conduct was increasing the case load in the country. There was no insinuation or targeted reference to the Muslim community as alleged.

Referring to the Jamaat was purely factual and does not reflect the religion as a whole. The Tablighi Jamaat does not reflect or portray the Muslim community either in part or wholly. It is a specified group and the channel did not in any manner bring in the angle of any religion or community in this debate. The hashtags and title of the show are raising pertinent questions. They are not deciding anything against any group or community. To be selective in picking texts and disregarding the overall nature of the debate is wrong. The channel is not trying to shirk any editorial responsibility as regards this debate and raising baseless issues. The channel merely pointed out the fact that the episode is a debate programme which invites people from varied sections to debate on a topic. The title of the debate is only indicative and does not by itself mean that the channel is propagating any views against a community.

That there is no violation of the Specific Guideline No 9 relating to Racial & Religious Harmony by the channel. The story was not intended to affect the communal harmony between the communities or even intended to refer to the people of the Muslim religion as such. It is necessary that the programme is viewed as a whole, and not on the basis of breaking, and dissecting a sentence or a stanza to show any adverse effect, without contextually understanding as to why that statement or sentence or stanza came about. The word “*super spreader*” per se is neither derogatory nor defamatory and is a widely used term, including a medically used term.

The statistics referred to in the entire debate is based on Government data. The choice of a news debate is entirely editorial discretion. The topic chosen here was the recent incidents of lockdown violations reported against the Jamatis. There is no cherry picking and no interest groups that are being served by such debates. Such allegations are motivated and in fact the complainant had cherry picked statements made in the debate to push an agenda. The broadcaster did not impose its opinions in the debate. Raising pertinent questions is media’s right to report on issues that are of public interest. Several opinions are made available on a debate like this. To call it an opinionated programme against Muslims is incorrect and baseless. Relying on comments from various social mediums including of people of different religious communities etc. is also baseless. Such comments can be found across YouTube and other social mediums in response to almost every news broadcast by news channels whether it relates to Tablighi Jamaat or otherwise. This surely cannot be the basis to state that the channel should not be permitted to show programme, and discuss issues of public importance. That the relevance of the debate has to be seen from the situation existing at the relevant time, i.e., around 2.4.2020, and no reports, judgments, orders passed by the authorities or a court of law after the debate was conducted should be considered. For e.g., referring to the observations of the Bombay High Court in a matter totally unrelated to the issue is a wrong reference and reliance.

The debate in question did not focus on the foreigners or their visits to India. The moot point raised was during a pandemic situation why were the members of this congregation violating the lockdown and quarantine norms? The fact that number of cases increased exponentially after attendees moved to different parts of the country and had to be quarantined as they tested positive, thereby putting immense pressure on the system was brought out. The episode carried information based on reports available at that point of time i.e. in or about 2.4.2020. That a comment or a sentence or stanza or the programme as a whole may be independent, bold, and even exaggerated. That mere exaggeration, however, gross would not make the comment unfair, if not founded by malafide. This view has been followed till date by various courts in India while balancing the rights of Freedom of Speech and Expression and its restriction under Article 19(2). That the story was telecast by the channel in exercise of its fundamental right of freedom of speech and expression envisaged under Art 19 (1)(a). As a news medium, the story surrounding the Tablighi Jamaat was relevant in the circumstances at that time and was carried out in public interest.

The broadcaster stated that in the light of various submissions made both factual and legal and also various judgments referred, it is submitted that the broadcaster in exercise of its fundamental right envisaged under Art 19(1)(a) has telecast the said story. There is no violation of any Programme Code or any other Rules and Regulations in telecasting the episode dated 2.4.2020. Thus, the present complaint is not legally sustainable, hence needs to be rejected outrightly.

Decision

NBSA went through the complaint, response from the broadcaster, and also considered the arguments of both the complainant and the broadcaster and reviewed the footage.

NBSA decided that it would consider the complaint only in regard to the violations of the Code of Ethics and Broadcasting Standards and Guidelines/ Advisories issued by NBSA and it would not consider the complaint in relation to the Programme and Advertising Codes prescribed under the Cable Television Network Rules, 1994 and various Sections of the Indian Penal Code, 1860 as the Authority does not have jurisdiction to decide the complaints in relation to the above statutes and Rules.

In respect of the submission of the broadcaster that the complainant has no locus to file the present complaint, NBSA states that Clause 1.5 of the News Broadcasting Standards Regulations state that a "*Complainant*" means a person or association of persons or organization or corporate entity, who or which, makes a complaint to the Authority regarding a broadcaster in relation to, in respect of and/or arising from any matter which the Authority has jurisdiction to entertain, examine and decide under these Regulations". In view of the above, this objection raised by the broadcaster is not accepted.

With respect to the complainant's submission on the procedural lapses by the broadcaster in filing its reply, NBSA has noted that the broadcaster stated in its reply that given the pandemic situation and lockdown restrictions, there was an unintended and unavoidable delay on the broadcaster's part in accessing the necessary information and inputs for drawing up the reply dated 4.5.2020. In view of the submissions made by the broadcaster the delay in filing the reply is condoned.

NBSA accepted the submission made by the broadcaster that the choice of a news debate is entirely an editorial discretion, however while reporting or holding a debate, the broadcaster must adhere to the basic principles of accuracy, impartiality, neutrality and objectivity. While conducting a debate, the Anchor must be balanced and cannot push a debate towards a certain agenda.

The complaint has two facets. In the first place, certain imputation on the part of the Anchor are questioned as violative of the Code of Ethics and Broadcasting Standards. Second facet of the complaint blames the utterances on the part of the panelists. These two aspects are dealt with separately.

Coming to the role of the Anchor and after considering all issues raised in the complaint, NBSA noted that the Anchor of the programme made certain statements relating to the Tablighi Jamaat which were violative of the Fundamental Principles mentioned above. The Anchor while conducting the programme stated that:

1. The Tablighi Jamaat were being "*defiant for which India was paying a heavy price*". Words like "*super spreader*" was used for the Tablighi Jamaat in relation to corona virus.
2. The Anchor also spoke of the Jamaat spitting at doctors.
3. The Tablighis were called "*super-spreaders*" and the anchor called for these violators to be punished.
4. The channel also ran a programme on 2.4.2020 with the headline "*Is Tablighi Jamaat Wilfully Sabotaging India | Nation Wants to Know*".
5. "*Tablighi's are spitting, abusing, and thrashing the frontline warriors who are attending to them*", "*...refusing to get tested.*"

NBSA noted that most of the visuals did not corroborate the statements made by the Anchor and there was not sufficient material to justify the aforesaid imputations. Therefore, it lacked objectivity.

NBSA found that programmes telecast by the broadcaster violated the Fundamental Principles in the Code of Ethics and Self-regulation relating to "*impartiality and objectivity in reporting*". The manner, tenor and words used by the anchor and the headline could have been avoided.

In so far as panelists are concerned, the broadcaster may be right in its submission that it may not have any control on what they say. At the same time, the anchor/broadcaster should exercise proper discretion in selecting the panelists for a particular programme.

Having regard to the violations on part of the anchor, NBSA issues a censure to the broadcaster for telecasting such a programme on a sensitive issue which could create communal dissensions amongst communities. NBSA advises the broadcaster that panelists invited to the debates should be briefed with regard to the Code of Ethics and Guidelines, prior to the debate so that the panelists do not make provocative statements on the programme. The broadcaster should also be careful in choosing its panelists and try to avoid those persons to be panelists who are known in the public domain to have rabid and extreme views. In this regard, NBSA will be issuing an Advisory.

NBSA decided to close the complaint with the above observations and inform the complainant and the broadcaster accordingly.

NBSA directs the NBA to send:

- (a) A copy of this Order to the complainant and the broadcaster;
- (b) Circulate this Order to all Members, Editors & Legal Heads of NBA;
- (c) Host this Order on its website and include it in its next Annual Report and
- (d) Release the Order to media.

It is clarified that any statements made by the parties in the proceedings before the NBSA while responding to the complaint and putting forth their view points, and any finding or observations by NBSA in regard to the broadcasts, in its proceeding or in this Order, are only in the context of examination as to whether there are any violations of any broadcasting standard or guidelines. They are not intended to be 'admissions' by the broadcaster, nor intended to be 'findings' by NBSA in regard to any civil/criminal liability.

Sd/-

**Justice A. K Sikri (Retd.)
Chairperson**

Place: New Delhi

Date: June 16, 2021