

News Broadcasting Standards Authority
Order No. 104 (2021)

Order of NBSA on complaint dated 13.3.2020 received from Ministry of Information & Broadcasting regarding the disclosure of the identity of the Hyderabad rape victim by ABP News Channel on 30.11.2019

Complaint:

Ministry of Information and Broadcasting vide its letter dated 13.3.2020 had forwarded a CD to NBSA which contained the clip of a news item aired by ABP news channel on 30.11.2019. The impugned news item was a report on the gang rape and murder of a 26-year-old veterinary doctor on 27.11.2019 near Shamshabad, Hyderabad. The complaint relates to the disclosure of the identity of the rape victim in the impugned news report.

Response from the Broadcaster:

The broadcaster, through its response dated 30.3.2020, admitted that the telecast of the impugned news item had been inadvertent and on account of a bona fide mistake. The broadcaster further drew the attention of NBSA to an earlier decision conveyed by it vide letter dated 26.2.2020 to the broadcaster's sister channel ABP Majha concerning a similar complaint received *"from Mr. Abhijeet Shinde regarding showing picture and mentioning the name and profession of the Hyderabad Rape affected girl by ABP Majha on 31.12.2019"*. The broadcaster stated that while deciding the aforementioned complaint, NBSA had warned ABP Majha that any future violation in the matter would be taken seriously and consequently action would be taken against it. The broadcaster stated that it respected the decision issued by NBSA against its sister channel and assured that ABP News too would be cautious in the future and ensure that such mistakes are not repeated even inadvertently.

Decision of NBSA at its meeting held on 10.7.2020

NBSA considered the complaint, response from the broadcaster, viewed the broadcast and also read the translated script of the broadcast. NBSA noted that the broadcaster had revealed the name of the victim in its telecast. NBSA noted that allegation against the broadcaster is that it had violated the "Code of Ethics", and the *"Guidelines on Reportage of Cases of Sexual Assault" dated 7.3.2018, which states that "news channels must take special note of the provisions of Section 228A of the Indian Penal Code 1860 and of Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (presently Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015) which provides for protection of the identity of victims of sexual offences and of juveniles in conflict with the law"*.

NBSA noted that the broadcaster in its response has admitted that the telecast was inadvertent and on account of a bona fide mistake, and the broadcaster has assured that it shall be extremely careful in future. NBSA, however, noted that the same

violation was again being repeatedly committed by the broadcaster and this was the third time [twice by ABP News and once by ABP Majha] that the broadcaster was revealing the identity of rape victims on its channels which the broadcaster needs to be circumspect about. NBSA noted that the broadcaster was earlier also fined Rs 1.00 lakh and issued a warning vide Order No 57 (2019) dated 25.2.2019 for airing a news item revealing the identity of the rape victim on ABP News.

NBSA decided that the repeated violation of revealing the identity of rape victims was unacceptable. NBSA further noted that the broadcaster cannot use the warning issued by NBSA in the past as its defence to cover up the mistake in the current complaint. NBSA also observed that the broadcaster has conveniently avoided referring to Order No 57 (2019) dated 25.2.2019 wherein the broadcaster was fined Rs 1.00 lakh and issued a warning for airing a news item on ABP News, for revealing the identity of the rape victim.

NBSA, therefore, decided to issue a show cause notice to the broadcaster as to why it should not proceed to take action for violation of the “Code of Ethics”, and the “Guidelines on Reportage of cases of Sexual Assault” dated 7.3.2018, which also states that news channels must take special note of the provisions of Section 228A of the Indian Penal Code 1860 and of Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (presently Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015) which provides for protection of the identity of victims of sexual offences and of juveniles in conflict with the law”.

NBSA also decided the broadcaster and complainant be directed to appear before NBSA for a hearing at its next meeting.

NBSA noted that in response to the Show Cause Notice, broadcaster vide letter dated 24.11.2020 stated as follows:

We have gone through the decision of NBSA in the said notice. At the outset, we humbly submit that, in our reply dated March 30, 2020, the reference to the earlier warning was wholly inappropriate and ought not to have been made. Please accept our apologies. We unequivocally state that we take warnings issued and costs imposed by NBSA with utmost seriousness and as necessary touchstones in a self-regulatory ecosystem. While the error was indeed inadvertent, we express our deepest regret and unconditional apologies for the error. We assure you that we have put in motion a systemic audit of our editorial and production processes and awareness programmes across editorial and production functions to ensure that such an error is not repeated.

On being served with notices only the broadcaster was present in the hearing on 26.11.2020.

Ministry of Information and Broadcasting (MoI&B) did not appear in the hearing. Under Secretary, MoI&B vide letter dated 20.11.2020 stated that *“the matter was taken cognizance by EMMC suo-moto and accordingly no complaint exists. Further, ‘News Broadcasting Standards Regulations’ adopted by NBSA also allows it to take suo-moto initiative. Therefore, you are requested to proceed accordingly without insisting for presence of a representative from Ministry of I & B who are not a complainant themselves. It is also requested to intimate this Ministry about outcome of the action taken in the matter.”*

Broadcaster:

The following persons appeared on behalf of the broadcaster:

Mr. Arunabha Deb, Counsel

Ms. Disha Sachdeva, Senior Executive-Legal

Submissions of the Broadcaster

NBSA took note of the fact that the response to the show cause notice was received by the NBSA two days before the hearing.

The Advocate representing the broadcaster accepted the mistake and admitted that revealing the identity of a rape victim was unacceptable. In view of the violation, the broadcaster voluntarily agreed to air an apology on the channel.

NBSA brought to the notice of the Advocate appearing for the broadcaster that the violation of revealing the identity of a rape victim was happening for the third time on its channels. This was despite the warning and fine issued in the past for the same violation. NBSA reminded the Advocate that the law was being blatantly violated, which had serious consequences. NBSA stated that it was the basic fundamental duty of a journalist to abide by the law and it was not something which they had to be reminded about. Compliance of the law should come naturally to the journalists and the editorial personnel of the broadcaster. The Advocate was also reminded that a similar matter was pending before the Telangana High Court, in which NBSA is a respondent.

NBSA noted that when a complaint is before the NBSA, the broadcasters assure that actions are being taken to improve broadcasting standards. These assurances should not be just empty words which do not serve any purpose. ABP News in its response to the show cause notice, submitted two days before the hearing that awareness programmes are being put in place across editorial and production functions. However, no details are placed before NBSA to understand the kind of awareness programmes that had been conducted post the broadcast.

NBSA observed that merely stating that the telecast was an inadvertent error was not acceptable and not good enough. Revealing of a rape victim's identity is not only a violation of the self-regulation guidelines, but of the law and it is an egregious error.

Decision of NBSA

NBSA considered the submissions and after viewing the broadcast, observed that by revealing the identity of the rape victim, the broadcaster had violated the “Code of Ethics, the Principles of Self-regulation No 4. Depiction of violence or intimidation against women and children” and the “Guidelines on reportage of cases of Sexual Assault” dated 7.3.2018, which also states that news channels must take special note of the provisions of Section 228A of the Indian Penal Code 1860 and of Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 which provide for protection of the identity of victims of sexual offences and of juveniles in conflict with the law”.

NBSA after deliberations decided to impose the following sanctions upon the broadcaster, keeping in view the previous violations of similar nature by the broadcaster :

- i. The broadcaster shall, prior to the commencement of the 9 PM news on **June 23, 2021** air the following text (static) on full screen in large font size with a clearly audible voice-over (in slow speed) expressing regret for the said telecast on their channel ABP News by stating the following **(To be translated in Hindi)**:

“ABP News apologises that while reporting on the gang rape and murder of a 26-year old veterinary doctor on 27.11.2019 near Shamshabad, Hyderabad., we had revealed the name of the doctor, which is a violation of the Code of Ethics, the Principles of Self-regulation No 4. Depiction of violence or intimidation against women and children and the Guidelines on reportage of cases of Sexual Assault dated 7.3.2018, which states that news channels must take special note of the provisions of Section 228A of the Indian Penal Code 1860 and of Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 which provide for protection of the identity of victims of sexual offences and of juveniles in conflict with the law. We assure that we would comply with the NBSA regulations and the statutory provisions of the law while reporting on any news relating to rape victims and there would be no such violations in the future in this regard.”

- ii. A fine of Rs.1,00,000/- (Rupees One lakh only) is imposed on the broadcaster payable to News Broadcasters Association (NBA) within 7 (seven) days of receipt of this Order for violation of the Broadcasting Standards and Regulations. It would be open to the broadcaster to take appropriate action against the journalist, as it deems fit, in accordance with law.
- iii. NBSA decided that the Editorial Head will be solely responsible for any violations and in future the editorial head will be the person to appear before NBSA.
- iv. Submit complete details of the awareness programmes that have been put in place across editorial and production functions.

- v. The video of the said programme, if hosted, on the website of ABP News or YouTube or any other links should be removed immediately and confirmed to NBSA.

All the above actions along with the CD containing the apology should be confirmed to NBSA in writing within 7 days.

NBSA decided to close the complaints with the above observations and inform the MoI&B and the broadcaster accordingly.

NBSA directs 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 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