

News Broadcasting & Digital Standards Authority
Order No. 114 (2021)

Order of NBDSA (formerly known as NBSA) on the complaint dated 11.12.2020 from Mr. Indrajeet Ghorpade against ABP Majha for airing a programme on 29.11.2020

Complaint dated 29.11.2020 filed with the channel:

The complainant alleged that ABP Majha, on 29.11.2020 at 12:15 AM, aired a news report which showed a video of a minor losing his life in an elevator accident after getting trapped between the two doors of the elevator. In the impugned video, it could be seen that the elevator was being used by three minors, one of whom was deceased. The complaint questioned whether the broadcaster had obtained the consent of the parents/legal guardians of all three minors before airing the impugned video, which showed their faces and the death of one of them. That by airing the impugned video without the consent of the parents / legal guardians of minors, the broadcaster had intruded upon their privacy and potentially violated Section 1, Sub-section 6 of Principles of Self-Regulation under the NBSA's Code of Ethics.

Further Complaint dated 30.11.2020 filed with the channel:

The complainant stated that Section 1, Sub-section 3 of Principles of Self-Regulation of NBSA's Code of Ethics required channels to take adequate precautions while showing any visual instances of pain, fear or suffering, and the channels must not cross boundaries of good taste and decency. However, the impugned video aired by the broadcaster, although blurred, had crossed the boundaries of good taste and decency by showing the entire video with all minors visible and therefore violated Section 1, Sub-section 3 of Principles of Self-Regulation of NBSA's Code of Ethics. Further the channel should have aired the news without showing any visuals of the minors involved.

Complaint dated 11.12.2020 filed with NBSA:

Since the complainant did not receive a reply from the broadcaster within the stipulated period; the complaint was escalated to the second level, which is NBSA vide complaint dated 11.12.2020.

Response from the broadcaster:

The broadcaster in its reply dated 15.12.2020, stated that it was aware of the requirements with regard to showing any visual instance of pain, fear or suffering and had taken adequate precautions while airing the impugned news report. That the impugned report had carried a prominent disclaimer about the disturbing nature of the visuals and had also blurred the visual at the point where the accident actually occurred. It stated that in its editorial judgment, the news clip did not cross the boundary of good taste or decency and was aired in public interest for creating awareness.

The broadcaster addressed the issue of consent by stating that the footage was obtained from a CCTV camera installed in the elevator. Therefore, there was no question of intrusion of the privacy of the minors. Further, it stated that a reading of Section 1, Sub-section 6 of Principles of Self-Regulation revealed that the said sub-section would not apply to the instant case where the feed from a CCTV camera in an elevator, which is viewed in the normal course by multiple people, had been aired as part of a news clip.

The broadcaster stated that without prejudice to what had been stated above, it agreed that the impugned news clip was certainly disquieting. However, it chose to air the impugned clip with adequate precautions as per the NBSA's Code of Ethics for reasons of public interest and awareness. The broadcaster further stated that the incident, as devastating and anxiety-inducing as it may have been, was needed to be brought to public notice, both for the appropriate authorities to be vigilant about the nature of elevators in use and also for parents and guardians to be extra cautious.

Rejoinder dated 16.12.2020 from the complainant to the broadcaster:

The complainant requested the broadcaster to clarify if the consent of the parents had been obtained prior to the broadcast of the video of their children and the deceased child, as the same was not clear from the response of the broadcaster.

Decision of NBSA at 18.2.2021

NBSA considered the complaint, response from the broadcaster and viewed the footage/CD of the broadcast. NBSA was of the prima facie view that the broadcaster had violated Section 1, Sub-section 6 of Principles of Self-Regulation under the Code of Ethics and Broadcasting Standards as the identity of the minors should have been blurred throughout the video. NBSA decided that the broadcaster and the complainant be called for a hearing at the next meeting.

On being served with notices, the following were present at the hearing today:

Complainant: Mr. Indrajeet Ghorpade

Broadcaster: Mr. Vijay Selvi
Mr. Arunabha Deb, Legal

Submissions of the Complainant:

The complainant submitted that the broadcaster had violated the privacy of the minors as it had aired the impugned video with the faces of minor visible without seeking the consent of their parents or guardians. He stated that the clarification

given by the broadcaster in its reply stating that it did not feel the need to seek consent from the parents or guardians before airing the video with faces of the deceased and grieving minors visible to millions of viewers because the video was captured by a CCTV camera in an elevator which is viewed by multiple people was not acceptable.

He submitted that in normal course of proceedings, CCTV recordings from an elevator of a residential apartment, is not viewed by multiple people and is certainly not accessible to millions of people. Showing any visuals of minors, especially grieving and deceased minors, on television without the consent of parents or guardians is extremely unethical and insensitive. The fact that the visuals were captured by CCTV does not make the action less unethical and insensitive.

Additionally, there was absolutely no need to add dramatic, suspense music to a disturbing video which was in very poor taste. Further, the complainant submitted that the channel ABP Majha is a repeat offender when it comes to violating one's privacy and dramatizing painful incidents.

Submissions of the Broadcaster:

The broadcaster submitted that the complainant has two grievances in respect of the impugned broadcast first, that it intrudes the privacy of the minors and second, it offends good taste. As far as the complainant's grievance regarding privacy is concerned, the broadcaster stated that the footage in the impugned broadcast was taken from the CCTV camera installed in the elevator of the building, which is in public domain. Therefore, there was no question of intrusion of the privacy of the minors. However, it would introspect if an additional layer of diligence was required while airing even footage obtained from CCTV footage.

In respect to the complainant's second grievance that the impugned broadcast offends sensibilities of good taste, the broadcaster submitted that the impugned report carried a prominent disclaimer about the disturbing nature of the visuals and had also blurred the visual at the point where the accident had actually occurred. The broadcaster stated that while it agrees the visuals in the footage were disturbing, however, the same was aired in public interest and for creating awareness for parents and guardians to exercise extra caution and not let their children travel alone in elevators. Further, the impugned news report was also covered by other channels and newspapers.

Decision

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

NBDSA noted that the impugned broadcast was aired in public interest to create awareness. However, it observed that the clarification given by the broadcaster that the impugned video footage was obtained from a CCTV camera installed in the elevator which is in public domain and therefore, did not violate the privacy of the minors was not acceptable. NBDSA held that the broadcaster should have protected the identity of the minors by blurring their faces throughout the impugned broadcast. In view of the above, the Authority directed the broadcaster to exercise caution while broadcasting such sensitive programmes relating to minors.

In view of the above, NBDSA, therefore, directed that the video of the said broadcast, if still available on the website of the channel, or YouTube, or any other links, should be removed immediately, and the same should be confirmed to NBDSA in writing within 7 days.

NBDSA decided to close the complaint with the above observation and inform the complainant and the broadcaster accordingly.

NBDSA directs NBDA 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 NBDA;
- (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 statement made by the parties in the proceedings before NBDSA while responding to the complaint and putting forth their view points, and any finding or observation by NBDSA in regard to the broadcasts, in its proceedings or in this Order, are only in the context of an examination as to whether there are any violations of any broadcasting standards and guidelines. They are not intended to be 'admissions' by the broadcaster, nor intended to be 'findings' by NBDSA in regard to any civil/criminal liability.

Sd/-

Justice A.K Sikri (Retd.)
Chairperson

Place: New Delhi

Date : 13.11.2021