

News Broadcasting & Digital Standards Authority
Order No. 117 (2021)

Order of NBDSA (formerly known as NBSA) on the complaints filed by Mr. Utkarsh Mishra against Times Now

- **Complaint dated 18.9.2020 of Mr. Utkarsh Mishra against Rahul Shivshankar for broadcast dated 14.9.2020**

The complaint was filed against the anchor of the Times Now Primetime Show “*India Upfront*”, for violating multiple guidelines of the Code of Ethics and Broadcasting Standards (Code of Ethics) as well as the Specific Guidelines for Reporting Court Proceedings in Episode 1086 of India Upfront titled “*Shocking Secret admission out in Umar’s arrest, Does left lobby know the truth Delhi riots key witness intimidated, threat linked to kingpin?*” aired on 14.9.2020.

The complainant alleged that Times Now Channel had been not been covering the Delhi Riots investigation, in a fact based manner. Rather it had selectively chosen to filter and update the viewers on the observations of the Court, the Police and other information regarding anti- CAA protestors to unduly influence socio political narratives, thereby developing hostilities against individuals with different social political understandings of communalism and its agents. The coverage was done to target a community that is critical of the Delhi Police’s investigation and project them and their critique in a negative light, thereby unduly hindering the right of the viewer to have a fact based view on the matter and amounted to a sustained campaign to challenge a position, without intimating to the viewers what that position is in its entirety or allowing panellists to explain the same.

The complainant stated that the intent of the journalist in reporting the details of the Delhi Police charge sheet was for the purpose of hindering one side of a controversial public issue, in violation of Fundamental principle 4 of the Code of Ethics which was evident from the fact that not all updates and judicial observations were reported. That since the last primetime broadcast on the Delhi Riots investigation, other judicial observations and information had come to light, none of which have been reported by the Times Now network on primetime and were reported by other media the links of which are hereinbelow :-

- 1) Court raps Delhi police for not attempting to recover riots footage. <https://indianexpress.com/article/cities/delhi/inscrutable-indolence-delhi-court-raps-police-over-footage-recovery-delay-6524808/>
- 2) Devangana Kalita, Member of Pinjra Tod, whose image has been repeatedly flashed on the TIMESNOW screen, was granted bail , on the ground that she was not found to have been giving any provocative speeches.

<https://indianexpress.com/article/cities/delhi/pinjra-tod-devangana-kalita-gets-bail-in-northeast-delhi-violence-case-6578448/>

3) Natasha Narwal Granted Bail on the same grounds as Devangana.
<https://indianexpress.com/article/cities/delhi/court-grants-bail-to-pinjra-tod-member-natasha-narwal-not-seen-inciting-violence-6600420/>

4) The Trial court dismissed the plea against Anurag Thakur and Parvesh Verma because the Central government did not give sanction to prosecute them under Section 195 of the Crpc.

<https://thewire.in/communalism/court-dismisses-plea-seeking-fir-against-anurag-thakur-parvesh-verma-for-hate-speech>

5) An order asking Delhi police teams to proceed with caution while arresting Hindu accused of the February riots led the Delhi high court on Friday to ask special commissioner of police Praveer Ranjan as to what the ‘necessity’ was for him to issue this letter. In the order, Ranjan asked chiefs of teams investigating riot cases to take “due care and precaution” while making arrests because the arrest of “some Hindu youth” from the riot-affected areas in northeast Delhi had led to a “degree of resentment among the Hindu community”.

<https://thewire.in/law/delhi-riots-hindu-accused-high-court>

The complainant stated that the information above was critical for a viewer to develop an unbiased opinion of the case and to understand the depth and nature of the criticism and allegations of bias being levelled against the Delhi Police and the Central Government in its inaction against hate speeches that advocated violence and the witch hunt against Anti-CAA activists, none of which were reported by the channel on its primetime show.

That instead of reporting judicial observations that could offer a degree of clarity to a highly divisive communal matter, the broadcaster chose to report the unverified allegations of the Delhi Police under the UAPA, to target and project a particular community in a negative light.

In the impugned broadcast, the complainant stated that the journalist reported a webinar that had taken place, as a “*secret meeting of leftists*” when the meeting was actually a webinar on a Zoom call that was uploaded as a Facebook Live video by Pedestrian Pictures and described as, “*Reclaiming Freedom of Speech and Liberty in Times of Intensified State Aggression and Repression*”, with panellists : *Shivasundar, Teesta Setalvad, Adv S Balan, Abdul Aziz and K P Sasi*. The said webinar was public and open to any individual who had the link to view, therefore the complainant alleged that by reporting the webinar as “*secret meeting*” the broadcaster expressly attempted to

mislead the viewers and develop hostility between communities, regarding the nature and object of the discussion taking place. The anchor also attempted to project the analysis and critique of the webinar speakers on Muslim communalism and its enablers as a deception / collusion with parties and outfits that could be against the national interests of the country, which the complainant stated was an express attempt to polarize viewers, further evidenced by the anchor's extensive opinionated and generalized assertions, along with the channels internal security editor of how this group of people was being hypocritical and deceiving the country by criticizing the PFI in "secret meetings" and defending Umar Khalid in public.

The assertions were unscientific and biased in context of social science as there was no inherent contradiction, as repeatedly expressed and suggested by the anchor in supporting investigation into the PFI's role in the violence and opposing the witch hunt of Anti CAA activists, against whom the allegations of hate and provocative speech have failed to meet legal standards of proof in Court.

The complainant alleged that the particular coverage was the journalists most egregious violation while covering the Delhi riots till date and demonstrated his pattern of reporting on the riots, that had been done to target a particular community. During the impugned programme the anchor filtered and distorted the basis for the critique of the Delhi Police's investigation, and repeatedly asserted hypocrisy and a lack of concern for the Hindu lives lost in the riots, which violated the rules of impartiality and objectivity in reporting. The complainant highlighted some of the statements made by the anchor during the impugned programme:

"Viewers, I want to begin by asking you a simple question. If a person is accused of colluding with an NLA designated terror organization, or a hate group, would you not be worried?, would you not want such a person tried for betraying the interests of the country? Would you not want a free, and fair investigation into the antecedents of this alleged nexus?, and what if I were to tell you that those activists defending the person who is being accused of links to a dangerous organisation in public knew in private that the group he or she was aligned to was a dangerous organisation. What would you say? Would you not accuse these activists of duplicity, of hypocrisy of lying to the country? Why would anyone knowingly, knowingly defend an individual from colluding with allegedly an organization that is involved in anti-national activities? Why would they say in public that this is a witch hunt against that individual, but in private, in secret conversations amongst each other, they would admit that the alliance is a dangerous one, that the organization is a dangerous one? Indeed viewers, as you know Umar Khalid who is being tried for sedition in the JNU tukde-tukde case has been arrested in connection to the Delhi riots. The arrest happened late last night. Khalid is accused of conspiring with Khalid Saifi to raise funds from the NLA designated hate group, the Popular Front of India. The entire left lobby is up in arms. They have been protesting what they call is a witch hunt by the centre on Umar Khalid who according to them is merely a dissenter. Several opposition parties have backed the activist lobby, but viewers, while in public, they are defending Umar Khalid, in private, they admit the organization that Umar Khalid is being linked to by the Delhi police is a dangerous organisation. They say that the PFI is radicalising Indian

muslim youth, and turning them into India haters. This is serious case of duplicity, viewers. I just want you to see some of these visuals. On the one side, viewers, is a conversation. Let's cut to the viewers, the visuals there. On the one side is a conversation that is going on in private, viewers that Times Now has been able to access because the intelligence agencies to whom this video has been leaked to is in possession of them, and our reporters have been able to access this video. Times Now's internal security editor, Nikunj Garg has been able to access this video, now, there are several individuals chatting with each other, some of them were very known like Teesta Setalvad, and they admit that the PFI is a dangerous organisation. Now, viewers, Umar Khalid is accused by the police. He has been denied bail just a few moments ago, and this is the bail order which says that he has, according to the police, links with the PFI, that the same individuals are defending Umar Khalid, the same individuals who say that PFI is a dangerous organization. How can this be, viewers? In secret, they accept that Umar Khalid's ties with a dangerous organization, or at least in private they admit that the PFI is a dangerous organization, so it should stand to reason that Umar Khalid's ties with that organization could not be in national interest. They are admitting all this, but in public, they are defending him. First, viewers, listen to this admission that totally exposes this left lobby, Lutyens driven campaign to save Umar Khalid even though they know that the organisation that he is dealing with is palpably dangerous. Listen to this conversation, viewers. It is absolutely shocking, astonishing, and points to a massive fraud that is being committed on all of us. Listen to this."

"15:37- 17:10: I don't consort with anybody, Rahul Shivshankar. Once you finish, let me talk. The anchor speaks, I am asking a question. The panelist (Mr. Paranjoy Guba Thakurta) resumes, let me ask you, is Mr. Julio Ribeiro also anti-national? Why has he written a letter to the Police Commissioner of Delhi, saying that the investigation has been deeply flawed. Why has Mr. Ribeiro... the anchor interrupts, when did Julio Ribeiro retire?, no, one minute, when did Julio Ribeiro retire? Answer me that question first. No, I am asking you, I am asking you when did he retire. How am I supposed to know what Julio, who is Julio Ribeiro in the largest stream of things, Sir? Who is he in the present stream of things? Is he an investigator?, is he the lead officer of the Delhi police? Is he investigating this case? The panelist resumes, There are a large number of police officers... the anchor interrupts again, I am asking you, is Teesta Setalvad wrong? No, I am asking you, is Teesta Setalvad wrong? Is Mr. Nomani wrong? The panelist says, why don't you ask Teesta Setalvad to justify herself? The anchor continues to interrupt, Mr. Nomani who belongs to an organisation called Swaraj India that is headed by Yogendra Yadav, and that has counts among its members, Mr. Prashant Bhushan. Are these people wrong? Is Prashant Bhushan wrong? Simple question. Is Prashant Bhushan, Yogendra Yadav, Teesta Setalvad wrong about the PFI? Answer me this question."

"19:13- 20:00: Viewers, what did Kapil Mishra say? Yaha par DCP sahab hain. Allow me to finish. Yaha par DCP sahab hain mere saamne, 3 din, one minute, one minute... (people speaking over each other)... okay, one second, Sunny Dhiman, I will lower your frame, and count him out, one second. Now, viewers, I want to ask the counter question. Why has Sonia not been arrested? Sonia Gandhi said, aar paar ki ladaayi hai. What does that mean, aar paar ki ladaayi? What does that mean, viewers? Delhi mein aar paar ki ladaayi hogi."

The complainant stated that the anchor made generalized and opinionated statements that were suggestive of guilt and reported charges as facts and read out judicial observations out of context to promote his agenda of supporting the impassioned monologue against leftists which he gave at the beginning of the programme, further demonstrating his intent to report news with the sole purpose of influencing a particular socio political narrative as is evident from the transcript above. Following his pattern of promoting one side of an issue, the anchor repeatedly interrupted panellists with whom he disagreed and also prevented them from completing their statements, and then proceeded to accuse them of lying.

The complainant further stated that the journalist (Internal Security Editor) also valorised the Delhi Police's investigation and their motivations that have on at least four occasions been questioned by the judiciary, regarding their leaks to the press, failure to collect evidence and for investigating only one side. The complainant asserted that this valorization in a case, where state authorities are facing serious charges of collusion in the crime, further violated impartiality and objectivity in reporting and attempted to promote one side of a controversial issue.

The complainant stated that during the impugned programme, the broadcaster also gave incomplete information regarding Kapil Mishra, and the nature and number of hate speeches made by BJP leaders and express attempts were made to dismiss the charges against Kapil Mishra as irrelevant and draw false equivalencies between the speeches made by the BJP officials and Anti CAA protestors. He alleged that the anchor also attempted to mislead the viewers regarding the legal boundaries of hate speech and speech which encouraged vigilante violence by claiming that "*aar paar ki ladaayi*" amounted to hate speech. That such coverage was bound to prejudice public opinion on the issue and had the potential to interfere with the ongoing cases regarding prosecution of hate speech in Courts. In the impugned programme, a false and misleading caption was aired as "*aar paar ki ladaayi*" which did not translate into "*a do or die battle*".

Further the complainant stated that in the impugned programme, the anchor attempted to pass unverified allegations upon those critical of the Delhi Police and the Central Government's investigation into the riots, by claiming that they have for once told the truth by stating that PFI is a potentially dangerous organization, and made further assertions that "*Aar paar ki ladaayi*" is what manifested in the Delhi riots indicating that the Anti CAA camp, was responsible for the same. The complainant therefore asserted that the anchor's claim that these people had been exposed on their own amounted to sensationalist coverage and violated the principles of impartiality and objectivity.

During the impugned programme, the complainant stated that one of the panellists mentioned confessions, including of Tahir Hussain's. However, the channel failed to intimate to its viewers that the "confessions" made by Tahir Hussain were not

admissible in the Courts. The panellist further also attributed false positions regarding silence on the prosecution of Uighurs in China, that has been condemned by activists around the world, and claimed that “*Jinnah waali aaazadi*” slogans were raised at Shaheen Bagh and was not stopped by the anchor on even one account. The anchor’s bias was also evident from the fact that he had failed to address and inform viewers that the broadcaster did not agree with the panellist when he claimed that he was for hate speech. That while in past broadcasts the anchor had interrupted panellists who were critical of the Delhi Police’s investigation on grounds that their statements were allegedly untrue or would result in law and order issues, despite there being no indication of the same, yet in the impugned broadcast he allowed false allegations and statements supporting illegality without any censure whatsoever.

Additionally, during the programme the anchor repeatedly asked panellists if they agreed with Teesta Setalvad, prevented them from speaking and projected their answers as support for Anti Indian forces. The anchor also attempted to attribute false extremist positions to individuals critical of the Delhi Police and BJP by inexplicably stressing that the “*lobby should be asking for a probe*”, despite the fact that panellists had said that if Umar Khalid has done something unconstitutional, he needs to be investigated. The complainant stated that by terming the statements as confessions an express attempt was made to suggest guilt and in fact was a further attempt to divide communities on the basis of a webinar which by all accounts appeared to be calling for prosecution of communalism in all forms. By claiming that criticism against the Delhi Police is a carefully constructed partisan narrative the anchor promoted one side of a debate.

During the impugned programme, the panellists were utterly alienated as the anchor attempted to promote one side. That while the Anchor can admonish the panellists for allegedly not answering his question, however, he does not have the authority to speculate, promote motivations, alleged conspiracies and hypocrisies. By repeatedly telling the panellists that they were not being truthful, the Anchor had mislead the viewers.

The complainant therefore prayed for the Anchor to apologize for violating :-

- a. Section 5 of the Cable television network regulation act and Section 6 (d) of the Cable television network rules.
- b. Fundamental principles no 4, 5 and 6 of the NBSA guidelines,
- c. Principle 2 of self-regulation of the NBSA guidelines
- d. Entirety of NBSA’s Specific Guidelines for Reporting Court Proceedings, by reading out these guidelines on primetime, without offering his opinions on the matter.

- **Complaint dated 30.9.2020 of Mr.Utkarsh Mishra against Padmaja Joshi for coverage dated 23.9.2020**

The complaint was filed against the anchor of the Times Now primetime show “*India Upfront*”, for violating multiple guidelines of the Code of Ethics, Specific Guidelines for Reporting Court Proceedings and Guidelines to prevent communal colour in reporting crimes, riots, rumours and a such related incident in Episode 444 titled “*The Newshour Agenda; EP444 - Delhi Riots: Plot To Kill Cops & Kaafirs Exposed; Peaceful Protest A Facade?*” aired on 23.9.2020 available at <https://www.timesnownews.com/videos/times-now/newshour/delhi-riots-plot-to-kill-cops-kaafirs-exposed-peaceful-protest-a-facade-the-newshour-agenda/75461>.

The complainant alleged that the broadcaster had not been covering the Delhi Riots investigation, in a fact based manner. Their coverage generalized and distorted extremely complicated issues of state accountability, state arbitrariness, police violence, legal means of protest in a manner that entirely targeted and attempted to hinder participation in a democracy of those critical of the Delhi Police and the BJP. On multiple occasions, in the broadcast, the anchor passed judgement on the strength of the witness testimonies, WhatsApp chat contexts, attempted to discredit the anti CAA protestors, by using sub judice issues as the basis for her accusations, thereby running a media trial to hinder one side of a controversial issue. She used evidence and police witnesses as proof of the validity of conspiracy claims while shutting down any comments on the said evidence as lack of faith in the system, encouraging speculation on the basis of half knowledge and false contexts. Once again, the anchor attempted to misconstrue the criticism of the investigation which is that the investigation seeks to evade accountability for Central Government officials for calling the protestors jihadis, anti-nationals, murderers and rapists while prosecuting people from lower socio-economic backgrounds who are traditionally provoked into committing the actual act of rioting. Her attempts to discredit the criticism as lack of faith in the judiciary was more egregious in light of the transfer of Justice Muralidhar, which was criticised by several former judges as unprecedented and politically motivated. Any claim that the Delhi police's investigation cannot be called a witch hunt on the basis of the number of Hindus arrested was an opinion expressed by the anchor which violated neutrality and objectivity in reporting. The broadcaster has continually used the charge sheet filed against the Hindu rioters as proof of their impartiality and unbiased investigation, when no such logical conclusion could be drawn in light of the multiple indications of state complicity in the riot. A large number of the anchor's conversations were with a BJP spokesperson, who has in the past spread misinformation on the channel and has been encouraged by the anchor.

In the impugned programme, the complainant stated that the anchor has attempted to link the Delhi riots conspiracy with the anti-CAA protests which is more along the lines of assumption as there is no fact which connects them both. The anchor continued to build up a narrative where she claimed that the peaceful protestors were the ones who were responsible for the acts of violence where in fact the quantum of Muslim casualties was higher than the rest. She also missed the point that at these protest sites, not only Muslims, but people from every religion, and occupation were present for the days these protest sites were still in function. Further, as far as the eye-witness was concerned, his credibility is highly questionable. The complainant alleged that this fact-less, assumption based reporting was capable enough to alter the opinion of the masses in order to vilify the anti-CAA protestors and the coverage violated clause 3 of the Guidelines to Prevent Communal Colour in Reporting which states *“In reporting all such news/ programmes the focus must only be on the objective facts of the incident. Great care is required in this behalf, particularly when the accused belong to a minority community”*.

The complainant stated that there was clear indication of biased reporting during the impugned programme as the anchor gave enough time to the right-wing panellists, however, she continuously interrupted and misconstrued the other panellist. Further, she did not even give them enough time to answer the questions she had put to the others. The anchor inexplicably asked the panellist to answer for the validity of the witness testimonies, despite them repeatedly stating that the issue is sub judice and they cannot fully comment on the validity of it. When a panellist claimed that the testimony could be fraud and planted as an evidence by the police, the anchor used the panellist's own logic of the issue being sub judice against him. She refused to accept any answer other than the evidence being reliable and the conspiracy alleged by the police being true. The anchor actively attempted to prejudice any criticism against the investigation, and the participation of a group of people in the democracy, by abusing her platform as a news anchor.

The complainant stated that the coverage was a blatant attempt to discredit any criticism of the investigation and the anchor openly colluded with the BJP spokesperson to discredit the same. Judging by the track records for riots cases, the trial is likely to go on for another decade. Yet the complainant stated that it appeared that anchor seemed to have arrived at her conclusions regarding the evidence that had been presented till date. The one sided reporting was evident from the fact that the witness statements had been dissected and promoted repeatedly, to mislead viewers that the critics of the riots investigation do not believe that any Muslims committed acts of aggression or they do not care about Hindu lives that were lost. The analysis was repeatedly tailored towards promoting the Delhi Police as a fair and impartial agency and praising their investigation despite the fact that serious charges have been levelled against the force for their collusion in the riots. She expressly defended the charges of the Delhi Police while attempting to dismiss the critics of

the investigation by misconstruing their statements, painting them in an extremist position and by repeatedly interrupting them. Further, during the impugned programme the anchor continually promoted charges as facts and gave currency to unidentified charges.

The complainant therefore prayed for the anchor to apologize for her violation of:-

- a. Section 5 of the Cable television network regulation act and Section 6 (d) of the Cable television network rules.
- b. Fundamental Principles no 4, 5 and 6 of the NBSA guidelines,
- c. Principle 2 of Self Regulation of the NBSA guidelines
- d. Entirety of NBSA's Specific Guidelines for Reporting Court Proceedings
- e. Section 3 of the Guidelines to prevent communal colour in reporting, by reading out these guidelines on primetime, without offering her opinions on the matter.

The complainant vide emails dated 13.10.2020 escalated the complaints to NBSA, as no reply was received from the broadcaster.

Consolidated Reply dated 24.10.2020 from the Broadcaster:

At the outset, the broadcaster categorically and vehemently denied all of the allegations levelled against it under the complaints. It alleged that the complainant has been making unnecessary and frivolous complaints repeatedly against the same anchors/ journalists of the English news channel Times Now in a whimsical manner, levelling frivolous allegations and the broadcaster has reasons to believe that all the past complaints including the aforesaid under reply were motivated and were deliberately being filed, targeting the anchors with certain agenda and vested interest. That it fails to understand as to how the complainant was affected by the news debate programmes in question aired by the broadcaster in the manner as alleged in the complaints.

The broadcaster stated that the basic ethics and journalistic principles require a responsible channel, as the one operated by it, to inform the public at large about incidents that are of public interest and importance. That news media enjoys certain basic tenets of constitutional protection enshrined under Article 19(1)(a) of the Constitution relating to freedom of speech and expression, and are, thus, within their right to propagate news and information for larger good. While media enjoys such freedom on the one hand, the public at large on the other hand, have the right to receive such information, which is another facet of freedom of speech and expression under Article 19(1)(a) of the Constitution.

That the impugned news debate programmes were disseminated in public interest and had not violated any of the principles of the Code of Ethics and Broadcasting Standards or Specific Guidelines for Reporting Court Proceedings, and hence cannot be restricted in any manner whatsoever.

The broadcaster stated that in the impugned programmes, it had merely conducted and carried out a free debates on a burning issue, which constituted fair reporting, in good faith and was in consonance with the journalistic principles and for public scrutiny. The debates began with a specific, relevant and strong question. The issue taken up for debates were relevant and significant keeping in mind the current happenings. The intent of the debates in question were to seek answers to specific issues, make available counter perspective on a widely popular narrative and also get opinions to support or oppose such narratives. The idea was to ensure narratives were freely analysed and public at large also consumed views that are not always popular or publicized. Keeping this in mind, it stated that one has to view a debate or a live programme or a similar programme/reporting as a whole, and not dissect the same, to pull out few comments here and there to allege non-compliance of certain guidelines. The broadcaster stated that complaints under reply however were examples of exactly the opposite i.e., knit picking few lines, paras and stanzas to allege non-compliance, which is neither permissible nor maintainable in the eyes of law. Secondly, the public at large has to be provided with a wholesome view of a topic, in respect of which arguments of both sides must be presented and debated upon and this was exactly what was done in the impugned programme. Hence the complaints were neither maintainable nor showed how the alleged programmes violated the Code of Ethics or Guidelines for Reporting of Court Proceedings as alleged or otherwise or at all.

The broadcaster vehemently denied the allegation that it had not been covering the Delhi Riots investigation, in a fact based manner or had selectively chosen to filter and update the viewers on the observations of the court, the police and other information regarding anti- CAA protestors to unduly influence socio political narratives, thereby allegedly developing hostilities against individuals with different social political understandings of communalism and its agents. It denied that the coverage had been done to target the community that is critical of the Delhi Police and allegedly projected their critique in a negative light or unduly hinder the right of the viewer to have a fact based view on the matter. It further denied that the intent of the journalist in reporting the details of the Delhi police charge sheet was allegedly evident from the fact that the following updates and judicial observations, critical to a viewer's understanding of the criticism of the Delhi police's investigation were not reported.

The broadcaster stated that the observations made by the Courts, whether Hon'ble Delhi High Court or the Ld. Trial Courts against the Delhi Police or its officers during the judicial proceedings in the subject matter, and publications thereof by different media houses of the same, the web links of which were mentioned in the aforesaid complaints were not being dealt with as they did not pertain to the broadcaster and were irrelevant. The broadcaster stated that all the above said information was in public domain, and as such, publication of the same cannot be

challenged nor restricted in any manner whatsoever. Further the rights of the media houses guaranteed under Article 19(1)(a) of the Constitution of India were not tinkered by the Hon'ble High Court and therefore any information disclosed by the investigating agency about the case in hand at the time of filing of charge sheet would not amount to violation of Article 21 of Constitution of India. Consequently, the broadcaster stated that any news reporting on the basis of such information would be deemed to be a fair reporting in public interest.

The broadcaster denied that the information allegedly published in the said publications by different media house was critical for a viewer to develop an unbiased opinion of the case and to understand the depth and nature of the criticism and allegations of bias being levelled against the Delhi police and the central government in its alleged inaction against hate speeches that advocated violence and the witch-hunt against Anti-CAA activists. So far as allegation with respect to reporting of the unverified allegations of the Delhi police under the UAPA was concerned, it stated that the same were vehemently denied. Further the claim that has been made that UAPA is a law which has an overwhelming acquittal rate is unwarranted and irrelevant in the present context. The broadcaster stated that acquittal in a criminal case depends on the facts and circumstances of the that particular case and on the basis of evidences led and proved in that particular case, hence any general statement as aforesaid was highly uncalled for and out-rightly rejected.

Reply in respect of complaint dated 18.9.2020

At the outset, the broadcaster denied all of the allegations made against the anchor of the impugned programme. It vehemently denied that the anchor of the aforesaid debate had violated any guidelines of the Code of Ethics and Broadcasting Standards, or the Specific Guidelines for Reporting Court Proceedings, undertaken sustained campaign to promote divisive half truths, thereby creating enmity between communities formed on the basis of political, communal and religious classes as alleged or otherwise or at all. The broadcaster stated that these grave and serious allegations were made by the complainant without any merit or basis and arise from a very skewed and narrow perspective of the debate and had been made under the shadow of a grave misunderstanding of the broadcasts in question.

The broadcaster denied that the reporting/coverage violated the basic tenets of journalism of informing the citizenry of the state of governance or that the coverage was an express attempt to mislead viewers. The broadcaster stated that the entire debate was based on the glaring revelations made by the intelligence agency that *“activists defending the Umar Khalid who is being accused of links to a dangerous organization PFI, in public knew in private that the group he or she was aligned to was a dangerous organization.”* It denied that the said meeting was actually a webinar on a Zoom call that was uploaded as a Facebook Live video by Pedestrian Pictures and described

as, *“Reclaiming Freedom of Speech and Liberty in Times of Intensified State Aggression and Repression*. It also denied that the webinar was public and open to any individual who had a link to view and that the act of reporting the webinar as *“secret meeting”* was an express attempt to mislead viewers and develop hostility between communities, regarding the nature and object of the discussion taking place. It denied that the allegation that the anchor attempted to allegedly project analysis and critique of the webinar speakers on Muslim communalism and its enablers as a deception/ collusion with parties and outfits that could be against the national interests of the country and that it was an express attempt to polarize viewers, allegedly evidenced by the anchor’s extensive opinionated and generalized assertions, along with the broadcaster’s internal security editor, - that *how this group of people is being hypocritical and deceiving the country by criticizing the PFI in “secret meetings” and defending Umar Khalid in public*. The broadcaster stated that by merely viewing the zoom meeting clip, it is apparent that it was a meeting of core members called for discussing and taking the stock of its internal actions and by no stretch of imagination could it be considered a general webinar meant for general public. That from the kind of interactions that took place, it was amply clear that Ms. Setalvad reported past/ present actions/ situations and future strategy whereas normally in webinars the panellist speaks on certain topics/ issues. Thus the claim made that it was merely a webinar and not a secret meeting, is wrong, bogus and out-rightly rejected.

The broadcaster denied that the assertions were unscientific and biased in the context of social science or there is no inherent contradiction, as repeatedly expressed and suggested by the anchor in supporting investigation into the PFI’s role in the violence and opposing the witch-hunt of Anti CAA activists, against whom the allegations of hate and provocative speech were allegedly failing to meet legal standards of proof in court. It denied that coverage in question was the journalist’s most egregious violation while covering the Delhi riots till date and demonstrated the pattern of his reporting on the riots, that had been allegedly done to target a particular community by failing to intimate viewers of developments in Court, that carry more weight than police allegations. The broadcaster stated that Police is an enforcement agency and is empowered to register an F.I.R, investigate a crime and thereupon file its charge-sheet fortified with evidences where after the Court of law appreciates the evidences during trial and passes its verdict. Therefore the Court and the Police work in tandem with each other and it is not mere allegation, that the Crime Branch in its first charge sheet on the aspect of ‘conspiracy theory’ revealed the interlink/ connections between the Intermediaries, Popular Front of India, Religious Maulanas and Religious congregation i.e Delhi Markaz which had been named as the source of funding on the basis of CDRs (Call data/detail records), electronic evidence, testimonials of the eye witnesses and statements recorded of the other witnesses which revealed the factum of the pre hatched conspiracy to organize the riots in a well-planned manner. The broadcaster denied filtering or distorting the basis for panellists critique of the Delhi police’s

investigation or allegedly asserting hypocrisy and a lack of concern for the Hindu lives lost in the riots, on their part, which violated the rules of impartiality and objectivity.

The broadcaster denied that its Internal Security Editor once again valorised the Delhi police's investigation and their motivations that have allegedly, on at least four occasions been questioned by the judiciary, regarding their leaks to the press, failure to collect evidence, and investigating only one side. It further denied that this valorisation in a case, where state authorities were allegedly facing serious charges of collusion in the crime, violated impartiality and objectivity in reporting and attempted to promote one side of a controversial issue as alleged. The broadcaster stated that since the Police is a law enforcement agency, it is always be geared up to face some amount of criticism of their actions, scrutiny, and on multiple occasions challenge, however that does not stop the investigating agency from discharging their duties or would make it less credible/ unreliable.

It denied that the anchor further read out the Courts observations, out of context to promote his own agendas of supporting the impassioned monologue against leftist which he gave at the beginning of the programme, further demonstrating his intent to report news for the sole purpose of influencing a particular socio political narrative as alleged. The broadcaster stated that the court order read out by the anchor was certainly material and in context and was imperative to be read out in order to let viewers became aware of the fact that the investigating agency had collected enormous amount of technical data which needed to be confronted with the accused Umar Khalid, hence it deemed fit to extend the Police Custody. Thus the said order was not read out of context. It was read to exhibit how grave the situation was, when the activists defending the Umar Khalid who is being accused of links to a dangerous organization PFI, in public knew in private that the group he or she was aligned to was a dangerous organization.

The broadcaster denied that the anchor gave incomplete information regarding Kapil Mishra, and the nature and number of hate speeches made by BJP leaders. It stated that the issued in hand was not Kapil Mishra, on the contrary the anchor tried to let viewers know what Kapil Mishra said which had been blown out of proportion purposely. However, he could not answer in the midst of the chaos as the panellist were speaking over each other. It denied the allegations that "*aar paar ki ladaayi*" amounted to hate speech and that the anchor attempted to mislead viewers regarding the legal boundaries of hate speech and speech encouraging vigilante violence. Further, it denied that such coverage was bound to prejudice public opinion in the issue and had the potential to interfere with the ongoing cases regarding hate speech prosecution ongoing in courts. The broadcaster submitted that the anchor merely tried to compare the speech given by Sonia Gandhi in order to question the panellist whether the statement '*aar paar ki ladaayi*' falls under the

ambit of inflammatory speech or not and nothing else. The said statement of Sonia Gandhi was addressed to the public at large and was not from the citizen of the country or was disclosed by the anchor for the first time, hence it is beyond anyone's imagination as to how discussing the said statement would amount to hate speech or encourage violence at this stage afresh.

The broadcaster denied the allegation that the anchor attempted to pass unverified allegations upon those critical of the Delhi Police and Central Government investigation into the riots. It denied that the revelation made by the anchor that these people have been exposed on their own amounted to sensationalist coverage and violated impartiality and objectivity. The broadcaster asserted that the anchor had discharged its professional obligation by reporting the incident to public for public scrutiny. That since the individuals involved were the public figures and followed certain hidden agenda it was even more important to reveal the same in the national interest.

It denied that the anchor's bias was most evident from the fact that he had failed to address and inform viewers that the broadcaster does not agree with Dr Ranganathan when he allegedly claimed that he was for hate speech. The broadcaster stated that any claim made by the Panellist are independent and individual and have never been endorsed either by the channel or the anchor, hence no allegation as such may be cast upon the anchor. It further denied that the anchor had in past broadcasts interrupted panellists critical of the Delhi Police's investigation on grounds that their statements were allegedly untrue or would result in law and order issues, yet here he allowed for false allegations and statements supporting illegality without any censure whatsoever. The broadcaster stated that these allegations were not only baseless but were unwarranted in light of the given facts.

So far as repeatedly asking panellists if they agree with Teesta Setalvad, the broadcaster stated that this was done to invite the panellist's take/ stand on it as the core issue of the debate was *activists defending the Umar Khalid who is being accused of links to a dangerous organization PFI, in public knew in private that the group he or she was aligned to was a dangerous organization*, and hence the panellist were bound to clarify their stand to let the citizens of the country know as to what they think of the agenda propounded by Teesta Setalvad, and it was only when the panellist tried to duck/ dodge the question and attempted to divert the whole argument, the anchor repeatedly asked the same question and did not let the panellists divert from the core issue.

So far as allegation of terming the statements as confessions, the broadcaster denied that it was an express attempt to resort to suggestive guilt or an attempt to divide communities on the basis of a webinar which by all accounts seemed to be calling for prosecution of communalism in all forms. The statements made by Teesta

Setalvad were clear admission on her part as to the nature and operation of the dangerous organisation, however she persistently defended someone closely associated with such organisation in public for the reason best known to her. Interestingly what is more intriguing is that Ms. Setalvad never came out after the incident in public to give clarification with regard to the same which manifest the conduct and intent of Ms. Setalvad, thereby fortifying the claim of the anchor.

The broadcaster denied that Teesta Setalvad and several organizations have taken a public stand not to stand with PFI. The broadcaster stated that if this was the case then she ought not to have defended Umar Khalid who as per the investigating agency, has nexus with the PFI.

It is correct that on one occasion one panellist answers clearly saying PFI is a radical organizations, however he was cut short as the panellist swayed away from the topic and did not intend to answer the question diligently. The broadcaster further denied the allegation that the anchor did not let the panellist complete their opinions in order to demonstrate his agenda of selectively reporting statements that can only promote one side of a debate.

Thus, the broadcaster vehemently denied that the anchors / journalists or the channel named in the complaint under reply abused their authority or violated any guidelines for reporting court proceedings as well as communal disturbances by giving credence to unverified charges, as if they were facts and basing his opinions on them. It further denied that the journalist have also attempted to legitimize the narrative supporting the BJP and the Delhi police, despite serious allegations regarding communal polarization and assault against anti- CAA protestors pending against them since December. It further denied that throughout the debate, the journalist has not once allowed those panelists, who sought to point out the police's inaction on BJP ministers, to state their full opinion.

Reply in respect of complaint dated 30.9.2020

At the outset, the broadcaster denied all of the allegations made against the anchor of the impugned programme. It vehemently denied that the anchor of the aforesaid debate had violated any guidelines of the Code of Ethics and Broadcasting Standards, or the Specific Guidelines for Reporting Court Proceedings, and undertaken a sustained campaign to promote divisive half truths, thereby creating enmity between communities formed on the basis of political, communal and religious classes as alleged or otherwise or at all. The broadcaster stated that these grave and serious allegations were made by the complainant without any merit or basis and arise from a very skewed and narrow perspective of the debate and have been made under the shadow of a grave misunderstanding of the broadcasts in question.

It vehemently denied that the broadcaster's coverage generalized and distorted extremely complicated issues of state accountability, state arbitrariness, police violence, legal means of protest in a manner that entirely targeted and attempted to hinder the participation in a democracy of those critical of the Delhi police and the BJP. It further denied that on multiple occasions, in this broadcast, the anchor had passed judgement on the strength of the witness testimonies, WhatsApp chat contexts, attempted to discredit the anti CAA protestors, by using sub-judice issues as the basis for her accusations, thereby running a media trial to hinder one side of a controversial issue. It denied that the anchor used the evidence and police witnesses as proof of the validity of conspiracy claims while shutting down any comments on the said evidence as lack of faith in the system, encouraging speculation on the basis of half knowledge and false contexts.

The broadcaster denied that once again the journalist had attempted to misconstrue criticism of the investigation which was that the investigation sought to evade accountability for central government officials for calling the protestors, jihadis, anti-nationals, murderer's, rapists while prosecuting people from lower socio economic backgrounds who were traditionally provoked into committing the actual act of rioting. So far as allegation of attempts to discredit the criticism as lack of faith in the judiciary being egregious in light of the transfer of Justice Muralidhar, which was allegedly criticised by several former judges as unprecedented and politically motivated was concerned the broadcaster submitted that the allegation was simply unwarranted and made out of context without any basis whatsoever. Further, it stated that the complainant had failed to substantiate his claim terming the investigation carried out by the Delhi Police as a 'Witch Hunt' and had been time and again levelling false accusation against the channel and its anchors of allegedly supporting the Delhi Police. On the contrary, the broadcaster stated that the anchor had in the impugned programme posed material and relevant question on the basis of the glaring revelations made by the Delhi Police in its charge sheet for public scrutiny. It denied that the channel or its anchor had continually used the factum of Hindus being charge sheeted as proof of their impartiality and unbiased investigation. It stated that the purpose of the debate was to pose a question on a statement given by a witness under section 164 Cr.P.C. who himself was a part of the anti CAA protest, that certain suspicious people with hidden agenda incited the protestors in a pre-planned, pre-meditated with a modus operandi to execute the Delhi Riots.

Further, the broadcaster denied the allegation that the anchor had a large number of her conversations with a BJP spokesperson, who had allegedly in the past spread misinformation on the channel and was being encouraged by the anchor. It reiterated that the statements/ claims made by individual panellist are their independent views and are never endorsed by the channel or the anchor. All panellists are given equal opportunity to speak on the question posed to them and

only in the situation when they try to duck the question or bring in irrelevant/ immaterial issues, they are cut short by the anchor in order to keep the debate focussed on the issue in question.

The broadcaster denied the allegation that the anchor's attempt to link the Delhi riots conspiracy, with the anti-CAA protests was more along the lines of assumption while there was no fact which connected them both. It is pertinent to mention that the anchor had reasons to believe the linkage between the anti-CAA protest and the Delhi riots especially in view of the testimony of the eyewitnesses under section 164 Cr.P.C. before the Magistrate which is admissible piece of evidence in the court of law and hence relevant question was posed to the panellist '*whether peaceful protest was merely a façade or there was a plot arranged to kill cops?*'. The statement of the eye witness revealed as to how over days a definite plan was hatched, not just to shed blood, but to stock pile arms, to threaten the government. The relevant portion of the statement are reproduced herein for reference "*sarkaar ko jhuka denge, unhein apni strength dikha denge, kaise? We will shed the blood of kaafirs, we will shed the blood of policemen*". Thus the anchor debated the burning issue in view of the said testimony of the eye witness in the public interest and in order to discharge its professional obligation and hence it cannot be alleged that reporting was fact less, assumption based deliberately made in order to alter the opinion of the masses to vilify the anti-CAA protestors.

It further denied that the anchor attempted to establish the link between the Delhi riots, and the peaceful protests which took place throughout the NCR, and continues to build up a narrative where she claimed that the peaceful protestors were the ones who were responsible for the acts of violence where in fact the quantum of Muslim casualties were higher than the rest. The broadcaster stated that the anchor never claimed that all the anti-CAA protestors were responsible for the Delhi Riots. It was claimed that only few people motivated with violent, political and communal agenda deliberately with malafide intention incited innocent protestors to participate in the Delhi Riots, especially in view of the testimony of the eye witness which revealed the modus operandi of such anti-social elements. It denied the allegation that the anchor had failed to notice that at these protest sites, not only Muslims but people from every religion, and occupation were present for the protest. The broadcaster stated that the anchor has always been conscious of the fact that an entire community cannot be blamed for illegal acts done by some anti-social elements belonging to some particular community and accordingly had been reporting on the issue responsibly and professionally. Thus it cannot be said by any stretch of imagination that the coverage violated the guidelines in terms of clause 3.

The broadcaster denied that there was clear indication of biased reporting by continuously interrupting the panellist. It further denied the allegation that the anchor gave enough time to the right wing panellists, whereas she continuously interrupted, misconstrued, and did not give enough time to even answers the

questions she had put to the others. It stated that all the panellists were given equal opportunity to speak on the question posed to them and only in the situation when they tried to duck the question or bring in irrelevant/ immaterial issues or misinform the viewers, they were cut short by the anchor in order to keep the debate focussed on the issue in question. The anchor rightly said that arrest made on substantial and cogent evidence cannot be termed as witch hunt unless they have substantial/ legal/ logical basis to counter the same. Any statement inciting violence and against the interest of the state ought to have been deprecated and thus any motivated hue and cry with hidden agenda has no right to allege witch hunt against the investigating agency.

It denied that there were repeated attempts to use evidence to hackle the panellists for supporting the Muslim rioters and that the anchor (wrongly mentioned “The Panellist”) was attempting to run a medial trial, by repeatedly asking for validity of the evidence presented by the Police. The broadcaster stated that the anchor merely raised a significant question that whether there was a linkage between the anti-CAA protest and the Delhi riots, especially in view of the testimony of the eyewitnesses under section 164 Cr.P.C.

The broadcaster denied that the anchor actively colluded with BJP spokesperson to discredit the criticism of the investigation and attributed false extremist positions to the panellists critical of the investigation. It stated that there was no sustained or wilful campaign by the anchor to defame those who were critical of the BJP or the Union Government. The channel or its representatives does not endorse, promote or support any party, community or government and that raising relevant questions on a significant issue in the backdrop of findings of investigation cannot be termed violative of regulations, defamatory or following a political narrative.

It denied that the anchor had been inexplicably asked the panellist to answer for the validity of the witness testimonies, despite the panellists repeatedly stating that the issue is sub-judice and they couldn’t fully comment on the validity of it. It further denied that the anchor had actively attempted to prejudice any criticism against the investigation, and the participation of a group of people in the democracy, by abusing her platform as a news anchor.

The broadcaster stated that the impugned programme India Upfront is a ‘live’ show that puts out hard facts on an issue “Up Front” for the nation to assess. It also invites comments/ views and responses from various guests/ speakers, experts on a specific, pointed and focused topic. The show raises questions and issues that have gained public importance in the recent past and which have an impact on the nation and the public at large. These are predominantly current issues keeping in mind public interest and significance of such news items in a democracy. It has always been and continues to be the endeavor of the channel and its representatives,

to bring to the fore core issues and project as many diverse views as is possible to such issues.

The anchors did not endorse any 'personal' views or beliefs to make a point during the debates. The findings of the investigation has been widely reported and the debates focused on these findings to seek opinions on the specific question being discussed. The anchors did not conduct a media trial as alleged but were merely raising relevant questions that flowed from these findings. There was no attempt to pass off these findings as certainty or influence or decry or cast any kind of accusations against the accused. The fact that the case is sub-judice is well known and the debates did not influence or comment upon the findings of the Court in any manner. Further, the anchors did not favour or sympathize one community as alleged. The debates challenged the popular lobby who claimed that the investigations were targeted against the Muslim community and only highlighted the fact that both communities were impacted in the riots.

The broadcaster stated that there was no sustained or willful campaign by the anchor to defame those who were critical of the BJP or the Union Government and that the channel or its representatives do not endorse, promote or support any party, community or government. Raising relevant questions on a significant issue in the backdrop of findings of charge sheet filed by the Delhi Police in the Delhi Riots case cannot be termed defamatory or following a political narrative. Further, it stated that nowhere did the debates or the anchor dispute the fact that there was loss of life and property to both communities. The glaring ignorance of lives lost by one community was brought to the fore following the findings in the charge sheet. The broadcaster therefore questioned can the media not raise such questions? can the popular lobby not be asked to explain their position against the findings of the investigation?

The broadcaster stated that by perusing the aforesaid debate programmes, it shall be amply clear that there was no violation of any guidelines of NBSA or NBA's Specific Guidelines for Court Reporting or Section 5 of the Cable Television Network Regulation Act and Section 6 (d) of the Cable Television Network Rules/Regulations. The allegations levelled in the aforesaid complaints are baseless and based on a misconceived understanding of the debates. The said Complaints wrongly targets the anchors as individual by accusing them of bias and peddling a political narrative. The debates in question highlighted very relevant and pertinent issues and brought out multiple viewpoints from the speakers. Arguments on both sides were freely available for the benefit of the viewers. The channel or the anchor has not by way of such debates violated any guidelines or regulations as alleged or otherwise or at all. The broadcaster denied these allegations and stated that the debates were conducted in an open and objective manner and did not cause any incitement of communal bias, or influence or mislead the viewers in any manner

whatsoever. Further it stated that the aforesaid debates must be viewed in perspective and must not be used as a tool to cast aspersions on the intent or integrity of reputed journalists and news mediums. Media freedom is an essential pillar of a free democracy and plurality of views and opinions, however strong and direct they maybe, must be allowed to protect this sanctity.

Keeping the above basic facts in mind, it stated that it was unable to fathom as to how it had violated the, Fundamental Principles of the Code of Ethics and Broadcasting Standards published by the News Broadcasters Association or committed any offence under Indian Penal Code as alleged or otherwise or at all. The aforesaid debate programmes by no stretch of imagination could be deemed to have outraged religious feelings of any class or community, statement creating or promoting enmity or promoting enmity, hatred or ill- will between classes or had violated any provisions of fundamental principle of Journalism or principles of self-regulations as published by the News Broadcasters Associations.

Though the aforesaid complaints the broadcaster stated that it appears that the complainant wanted to unnecessary engage its anchors into frivolous disciplinary proceedings and to cause unnecessary harassment, when it was evident that the debates/programmes did not intend, nor do they attempt to create any sentiments as alleged. Therefore, the broadcaster vehemently denied that it had breached the recognized ethical canons of journalistic propriety and taste in the said debate programmes. It further denied that by doing so, it was responsible for targeting and spreading hatred towards a particular community', and for violating the Programme Code prescribed under the Cable Television Network Rules, 1994 as alleged.

Further, the broadcaster stated that the fundamental principles in the Code of Ethics and Broadcasting Standards published by the News Broadcasters Association were framed so as to regulate the contents of the broadcasters in order to provide impartiality and objectivity in reporting. The Programmes have merely debated the issues of public importance. Nowhere the programmes violate any fundamental principle or principles of self-regulation.

It is a 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 the 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 the right of the broadcaster 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 include the right to hold opinion 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 aforesaid programmes were one such criticisms, 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.

The said programmes were a debate on issues of national importance wherein participants were from different factions, 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 is 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 is 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. It is settled law that the press is entitled to make fair comments on issues that impact the public at large, which is a right guaranteed under Article 19(1)(a) of the Constitution of India. This is an integral part of right of free speech and expression and the same must not be whittled away

Further, the said debate programmes were 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 under any circumstances whatsoever. That the complaint under reply was nothing but a threat to engage the broadcaster and its anchors/ journalists in false and frivolous proceedings.

Decision of NBSA on 18.2.2021

NBSA considered the complaints, response from the broadcaster and viewed the footage /CD of the broadcasts. NBSA decided that the broadcaster and the complainant be called for a hearing on 16.7.2021. The broadcaster vide email dated 9.7.2021, requested for an adjournment of the hearing due to unavailability of the legal counsel, which was granted by NBSA. Thereafter, NBSA decided to call the broadcaster and the complainant for a hearing on 24.9.2021. At the hearing, the broadcaster again requested for an adjournment. NBSA considered the request of the broadcaster and deferred the hearing in the matter to 28.9.2021.

On being served with the notice, the following persons were present for the hearing held on 28.9.2021:

Complainant:

Mr. Utkarsh Mishra, Advocate
Ms. Suroor Mander, Advocate

Broadcaster:

Mr. Kunal Tandon, Advocate
Ms. Kanika Jain, Advocate
Ms. Kirtima Maroover, Compliance officer NBDSA

Submissions of the Complainant:

The complainant submitted that the broadcaster has till date aired 15 primetime debates on the Delhi riots investigation, including the impugned broadcasts, highlighting only specific Police charges or Court observations that project prima facie guilt upon the anti CAA protestor's role in the riots and had then proceeded to pass judgment on the veracity of the charges.

The complainant relied on the judgment in *Multi Screen Media Pvt. Ltd. v Vidhya Dhar*, wherein the Hon'ble Delhi High Court held that “*the balancing of interest has to be with reference to the right of the media to tell and the right of the citizens to know vis-à-vis the right of the accused and the fulcrum of the balancing being : “Demonstrable substantial risk of prejudice”, and not the financial interest of the Broadcaster vis-à-vis the right of the accused.*”. He submitted that the coverage by the broadcaster has been largely prejudicial. That the targeted nature of the reporting is borne out by the broadcast titled “*Shocking Secret admission out in Umar's arrest, Does left lobby know the truth*” aired on 14.09.2020, in which the anchor repeatedly misinformed the viewers about the nature of a webinar titled “*Reclaiming Freedom of Speech and Liberty in Times of Intensified State Aggression and Repression*” organized by Pedestrian Pictures and projected it as a “*Secret meeting between leftists*”, in which the aforesaid “*shocking secret admission*”, was revealed. He repeatedly attempted to target the participants of the webinar by terming their actions as “*benign duplicity*”, “*betrayal of national interests*”, “*serious collusion*” amongst other terms. This was

in consonance with previous broadcasts on the issue whereby hashtags and debate titles such as “#Hinduphobesapologise”, and “Will Tukde Tukde Backers apologize to India?”, “Will hinduphobic lobby apologize to India?” have been used by the broadcaster to report on the issue.

The second broadcast titled “*Delhi riots: plot to kill cops and kafirs exposed; peaceful protest a facade?*” which was aired on 23.09.2020 was in respect of certain eye witness testimony and evidence which were being presented in the Court regarding the Delhi Riots investigation and also followed the pattern of using charges and judicial observations to establish false narrative about how the investigation into the Delhi riots was progressing in Court. The complainant asserted that reporting only the observations that prima facie project guilt upon the anti CAA protestors, under a controversial law such as the UAPA and a polarizing issue of communal riots, amounted to reporting news for the purpose of promoting one side of a debate which violated Fundamental Principle 4 and the Specific Guidelines for Reporting Court Proceedings. Further, he submitted that a number of Court observations which were critical of the Delhi Police’s investigation into the riots were not reported by the broadcaster during the impugned programmes.

The complainant submitted that its complaint is restricted only to the reporting during the primetime show and not during the entire day. While the broadcaster may have during the day made certain assertions his grievance is that those assertions were not mentioned during the primetime show. In the present case, the Court observations which were pertinent to the Delhi riots investigation were not reported by the broadcaster during the prime time programme.

The complainant submitted that since it is the broadcaster’ claim that the impugned programme were live debate, he stated that the rules of NBA/NBSA imposed a clear requirement of unbiased reporting on the broadcaster. Further, in respect to the broadcaster’s objection regarding the highlighting of specific stanzas/two three minutes of the impugned broadcasts, the complainant submitted that if in a thirty-fourty five minutes broadcast, allegations are being made after every five minutes which are then not countered/asserted by the anchor, then it clear that the broadcaster is allowing space for bias.

The complainant submitted that the impugned programmes appeared to be an opinion piece of the anchor and not a news debate as claimed by the broadcaster. That while opinion pieces have their own space however, they should not be broadcast as a live news item. The impugned programmes started with the opinion of the anchor which was aimed at directing the debate only in one direction and that if anybody tried to make an assertion that was alternative he/she was challenged by the anchor in clear violation of Section 4, 5 and 6 of the Code of Ethics. That there is a circular way in which the debates were conducted and alternative views even from the Court are not presented during the programmes. In the impugned

programmes, the anchor and the panellists repeatedly discredited any opinion that challenged the Delhi Police's investigation into the riots which clearly indicates bias in the reporting. He submitted that it is not permissible for the broadcaster to debate on the merits of evidence while proceedings are pending in the Court. The broadcaster however, at the end of the impugned programme by way of lip service stated that ultimately it is the Courts that are going to decide the matter.

The complainant submitted that the news programmes were required to be adjudged as per the Code of Ethics and on ground whether they unduly influenced public opinion and not on the grounds of incitement as claimed by the broadcaster which is a requirement under Indian Penal Code, 1860.

Submissions of the Broadcaster:

The broadcaster submitted that on perusing the complaints it appears that the complaints have been filed by a very hyper sensitive and technical viewer. The complainant's first and foremost grievance regarding the impugned programmes is that there was selective reporting and the broadcaster had not reported on certain judicial observations. However, the broadcaster submitted that it had reported on all the judicial observations highlighted by the complainant. For example, it stated that it had in its programme dated 15.6.2021 at 1:15 PM reported the grant of bail to Devangana Kalita. Further, it submitted that Court observations were reported as and when the broadcaster felt were important and were part of its editorial discretion.

The broadcaster submitted that the programme has to be viewed as a whole, and it is not permissible to break and dissect a sentence or a stanza to show that any bad word has been used. It relied in on the judgment of the Hon'ble Supreme Court in *Shreya Singhal v. Union of India* wherein it was held "*There are three concepts which are fundamental in understanding the reach of this most basic of human rights. The first is discussion, the second is advocacy, and the third is incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in.*" to question the complainant which stanza highlighted by him in his complaint amounted to incitement of offence.

In response to the allegation that "*the journalist has attempted to pass unverified allegations upon those critical of the Delhi police and central govts investigation into the riots , by claiming that they have for once told the truth by stating that PFI is a potentially dangerous organization, and makes further assertions that the "Aar paar ki ladayi" is what manifested in the delhi riots indicating that the anti CAA camp, was responsible for the same.*" , the broadcaster submitted that the assertions made by the anchor were factual assertions and the complainant cannot make blanket statements without substantiating how the allegations were unverified.

In respect to complaint dated 30.9.2020, the broadcaster submitted that the complainant had cherry picked stanzas and/two three minutes of broadcast to show adverse effect which is not permissible. The programme as a whole has to be considered and the complainant cannot be permitted to dissect 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 broadcaster further submitted that in any case mere exaggeration, however, gross would not make a comment unfair, if it is not founded by malafide.

Further, it submitted that the impugned programmes were live debates and views expressed by the panellists were there independent and individual views which were never endorsed either by the broadcaster or by the anchor. That during such programmes the only recourse available with the broadcaster/anchor is to cut the panellists. The broadcaster submitted that it also ran an opinion disclaimer during the impugned programmes and there was no selective reporting as alleged.

Furthermore, the broadcaster submitted that if there were any wrong facts made out in the episode based on which a complaint was being filed, then the onus was on the complainant to show that the facts were wrong. Merely claiming that the assertions were wrong did not discharge the complainant of his burden.

Decision

NBDSA looked into the complaints, response from the broadcaster, and also gave due consideration to the arguments of both the complainant and the broadcaster and reviewed the footage.

With regard to the broadcasts, NBDSA was of the view that the issue under consideration is whether the programmes including debates lacked objectivity and impartiality and were designed to promote one side of a controversial issue. It was also observed the Anchor of any programme should avoid pushing any agenda in the debate and should conduct a debate in a fair manner. In this regard, NBDSA noted that while the broadcaster undoubtedly has the right to conduct a debate on any subject of its choice, however, the Anchors of the impugned programmes did not conduct the debates in an impartial and objective manner and had therefore violated the Fundamental Principles as enumerated in the Code of Ethics and Broadcasting Standards and various Guidelines issued by NBDSA.

In view of the above, NBDSA decided to issue Guidelines relating to Anchors conducting programmes including debates to ensure that the broadcasters comply with the Code of Ethics and Guidelines issued from time to time.

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 observations 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 : 19.11.2021