

**News Broadcasting & Digital Standards Authority**  
**Order No. 123 (2022)**

**Order of NBDSA (formerly known as NBSA) on complaint against media channels for holding “media trial” “parallel investigation” in Sushant Singh Rajput-demise matter.**

**Complaint dated 16.9.2020**

The complainant stated that since 14.06.2020, several prominent media channels have been conducting “*Media trials*” “*Parallel proceedings investigation by conducting and broadcasting, holding debates, rendering opinion, exposing the material witnesses, examining and cross-examining the witnesses*” and “*reporting and chasing the officials of CBI who were investigating the death of late actor Sushant Singh Rajput*”. All such telecasts and broadcasts are available in the public domain. Several news channels had proceeded to already convict the accused named in the FIR and were also making insinuations against high-ranking officers of the Mumbai Police and the Ministers of the State without even completion of the investigation or probe in the matter. In various debates and discussions held by several prominent news channels/electronic media, in particular, the news anchors/reporters were examining and cross-examining all the proposed witnesses and exposing the probable evidence to the public, which can only be examined by the investigating agency or by the competent courts during the course of a trial.

The complainant stated that he had preferred a Public Interest Litigation (ST) No.92252 of 2020 before the Hon’ble Bombay High Court. Vide Order dated 3.9.2020, the Hon’ble High Court of Bombay urged the respondent media houses to exercise restraint in reporting the unnatural death of actor Sushant Singh Rajput which would in any manner hamper or prejudice the ongoing investigation which was being carried out by Respondent No.4-CBI after the imprimatur of the Supreme Court vide Judgment/Order dated 19.8.2020.

The complainant relied on paras 9 and 17 of the Order dated 10.9.2020 and stated that during the course of hearings, “*Ms. Nisha Bhambhani, learned Advocate for the NBSA submits that it has since received a number of complaints from viewers concerning alleged misreporting by some of the media groups and that the NBSA, having a retired Judge of the Supreme Court in the chair, is in the process of looking into such complaints.*”

Accordingly, the Hon’ble Court observed that the “*Pendency of these PIL petitions shall not preclude the NBSA (respondent no.4 in Criminal PIL (St) No.1774 of 2020) to consider the complaints that have been received by it and to take appropriate action thereon in accordance with law. The resultant decisions may be incorporated in the affidavit to be filed by such respondent.*” and “*We hope and trust that the spirit of the order dated September 3, 2020 shall be adhered to by the media houses and all concerned in the meanwhile.*”

The complainant submitted that despite the Orders dated 3.9.2020 and 10.9.2020, media houses were blatantly flouting the Orders of the Hon'ble High Court. In this regard, the complainant urged the Authority to consider his complaint against the member channels and pass necessary orders. The complainant requested that the contents of the Public Interest Litigations, Annexures, Supplementary Affidavits dated 31.8.2020, 9.9.2020 and 11.9.2020 be treated as part and parcel of the present complaint.

The complainant requested the Authority to take cognizance of the violations of the Programme Code, Code of Ethics & Broadcasting Standards, News Broadcasting Standards Regulations and the World Health Organization (WHO) Guidelines on Media Reporting of Celebrity Suicides and recommend to the Ministry of Information and Broadcasting to suspend/cancel the downlinking license granted and also impose a severe penalty. The complainant also requested that he and his Advocates be given prior notice of the hearing so as to enable them to produce any such additional material/evidence and make submissions in this regard. Additionally, they asked to be informed about the status of the complaint viz notice issued to the channels, reply if any received to the complaint to enable them to make proper representations and to file rejoinders to the replies if any.

NBSA decided to consider the complaint and response of the broadcasters at the hearing scheduled on 24.9.2020.

At the hearing held on 24.9.2020, NBSA heard the complainant and one of the broadcasters, i.e. Times Now. NBSA noted that since the complainant had filed the Writ Petition as a complaint, the alleged violations complained of were general in nature. NBSA, therefore, decided that in order to have a productive hearing, to understand the complainant's grievance against each channel and to be able to focus on each aspect/violation, the complainant be requested to send the individual links pertaining to the telecast/s of the channels along with brief submissions as to the violations committed by each broadcast/s in respect of the Code of Ethics and Guidelines of the Authority.

Accordingly, the complainant vide email dated 30.10.2020, submitted his brief written submissions, highlighting his grievances against seven channels, namely, India Today, Aaj Tak, Times Now, ABP News, Zee News, India TV and News Nation and also submitted the details of the links of the individual broadcasts by which he was aggrieved. In response, the broadcasters also submitted their responses to the written submissions of the complainant.

At the meeting held on 14.1.2021, NBSA noted that the complainant had raised similar grievances along with other petitioners in the Writ Petition filed before Bombay High Court relating to media trial. The Hon'ble Court had heard detailed

arguments, and the judgment had been reserved. NBSA decided that further action on the complaint would be taken after the judgement was pronounced by the Bombay High Court.

At the meeting held on 18.2.2021, the Authority noted that since the Hon'ble Court had not given any decision against individual broadcasters and since Mr. Nilesh Navalakha had filed specific complaints against each broadcaster, the Authority would look into the complaints. NBSA decided to call the complainant and the broadcasters for a hearing.

Consequently, the hearing was scheduled on 19.8.2021, and notices for the hearing were issued by NBDSA on 6.8.2021 to the complainant and six broadcasters. The complainant, along with the broadcasters, were directed to appear before the Authority for the hearing.

On 19.8.2021, at 6:00 a.m., the Advocate for the complainant sent an email to NBDSA requesting that the judgment of the Hon'ble Bombay High Court in *Nilesh Navalakha & ORS. v. Union of India & ORS., (2021) 2 AIR Bom R 179* along with NBSA's Specific Guidelines Covering Reportage and Specific Guidelines Covering Court Proceedings be placed on record, as it may be relied upon on behalf of the complainant during the course of the hearing(s). Further, he requested that the appearance of Mr. Mohd. Kumail Haider, Adv., also be entered on behalf of the complainant, Mr. Nilesh Navalakha, and he may be permitted to join the proceedings. Pursuant to the request, a link for the hearing was sent at 9:46 a.m. to the said Advocate.

The hearing fixed on 19.8.2021 by NBDSA was exclusively to hear the arguments in respect of six complaints filed by Mr. Navalakha against six broadcasters which pertained to the programmes aired by the broadcasters concerning the demise of Sushant Singh Rajput. Sufficient notice was given to the parties and all the parties, including the complainant, confirmed their presence. NBDSA decided to take up complaints against each of the broadcasters for which a time schedule was also indicated in the Notice sent to the parties. On the date of the hearing, the complainant affirmed not only his participation but also that of his Advocates who had sought permission from NBDSA to join the proceedings. When the hearing started at 10:00 a.m., initially, a request was made to start the proceedings at 11:00 a.m. on the plea that the complainant was under the misapprehension that the hearing was scheduled to begin from 11:00 a.m. This is notwithstanding the fact that the Notice unequivocally mentioned the time of the hearing at 10:00 a.m. NBDSA agreed to accommodate the complainant and asked him to join at 11:00 a.m. As already stated above, since all the complaints were listed for hearing, NBDSA did not have any other matters to consider. All the members of NBDSA, representatives of the broadcasters and their Advocates were made to wait till 11.00 a.m. However,

neither the complainant nor his Advocates appeared at 11:00 a.m. After waiting for a while, when the complainant was contacted by the official of NBDSA, the complainant requested that the matter be taken up after 2 p.m. or on some other date.

NBDSA noted that it did not appreciate the aforesaid conduct of the complainant, however, it decided to give one more opportunity to the complainant to appear and make oral submissions on 2.12.2021 from 2:00 to 4:00 p.m., the next date fixed for hearing.

On being served with the notice, the following persons were present for the hearing on 2.12.2021:

**On behalf of the Complainant:**

Mr. Shashwat Anand, Advocate

Mr. Rajesh Inamdar, Advocate

**Broadcasters:**

**ABP Networks Pvt. Ltd. [ABP News]**

Ms. Ashika Daga, Counsel

Mr. Girish Nair, Senior Assignment Editor

Ms. Disha Sachdeva, Assistant Manager

**TV Today Network Ltd. [Aaj Tak and India Today]**

Ms. Vrinda Bhandari, Advocate

Mr. Manish Kumar, Senior Executive Editor

Ms. Shiuli Bhattacharya, Legal Counsel

**Independent News Services Pvt. Ltd. [India TV]**

Mr. Tejveer Bhatia, Advocate

Ms. Ritika Talwar, Legal Head

**News Nation Network Pvt. Ltd. [News Nation]**

Mr. Ajay Verma, Senior Executive Editor

Mr. Ankit Parashar, Legal Representative

**Bennett, Coleman & Co. Ltd. [Times Now]**

Mr. Kunal Tandon, Advocate

Ms. Kanika Jain, Advocate

Ms. Kirtima Maravoor, Compliance Officer – NBDSA

**Zee Media Corporation Ltd. [Zee News]**

Ms. Ritwika Nanda, Advocate

Mr. Piyush Choudhary, Compliance Officer NBDSA & Senior Manager, Legal  
Ms. Annie, Assistant Manager Legal

**Submissions of the broadcasters:**

At the outset, the broadcasters raised preliminary objections challenging the maintainability of the complaint on the following grounds:

**A. The procedure as stipulated under the News Broadcasting Standards Regulations (Regulations) for filing a complaint was not followed by the complainant.**

The broadcasters submitted that the complainant did not follow the procedure prescribed under the Regulations while filing the present complaint. As per the Regulations, the complainant is required to file the complaint with the broadcaster at the first instance and if the complainant is not satisfied with the response received, only then can the complaint be escalated to NBSA. In the present case, the broadcasters submitted that the complaint was made directly to NBSA on 16.9.2020 and not with the broadcasters.

**B. The complaint was not as per the requirements prescribed by the Regulations.**

The broadcaster submitted that the complaint filed was not in the format as required by the Regulations. The complainant had attached the Public Interest Litigation filed before the Bombay High Court as the complaint and had not cited any specific broadcast/s by which he was aggrieved in the complaint initially. In fact, the complainant had merely made general allegations of “media trial” against the broadcasters.

**C. The complaint was barred by Limitation in view of Regulation 8.1.6.**

The broadcasters submitted that it was only on 30.10.2020 that the complainant in its written submissions, attached links of the broadcasts which contained specific allegations against six member broadcasters, and the written submissions containing the links of the offending programmes were time-barred as per Regulation 8.1.6. Furthermore, in the written submissions, no specific averments were raised as to how the impugned broadcasts violated the Code of Ethics & Broadcasting Standards and the NBDSA Guidelines.

In view of the above, the broadcasters relied on Order dated 13.11.2021 passed by the Authority wherein it was held that under the Regulations, “*there is no power vested with the Authority to condone the delay of a complaint filed with the broadcaster, which is beyond the period of 7 days from the date of broadcast, as the said provisions do not specifically give the Authority any power to condone the delays in filing complaints.*”

In fact, the broadcasters submitted that the Bombay High Court vide its Order dated 10.9.2020 had stated that the proceedings pending before the High Court would not preclude NBSA from dealing with the complaints that have been received by it, which implied that NBSA could proceed with the complaints received by it before 10.9.2020. In view of the above, on a reading of the Order, it is clear that no liberty was granted by the High Court to the complainant to approach NBSA and therefore the present complaint should be considered under the Regulations.

**D. The complainant has no locus standi to file the present complaint**

The broadcasters also submitted that the complainant had no locus standi to file the present complaint, as the essence of the allegations made against the broadcasters is that they have allegedly aired broadcasts which had prejudged the matter relating to the accused. The broadcasters relied on the decision of the Hon'ble Delhi High Court in *Srikant Prasad v. Union of India WP (Crl) 1036 of 2021* to submit that these grievances cannot be raised by the complainant who was not the affected party and that the affected party themselves should have filed the complaint.

**Submissions of the Complainant:**

In response to the preliminary objections raised by the broadcasters, the complainant stated that technicalities in respect of the format in which the complaint was filed and the procedure which is usually followed to file the complaints before the Authority should be waived in a matter as important as this.

The complainant submitted that, on the contrary, the Hon'ble High Court had granted the complainant liberty to approach NBSA with regard to the said issue, particularly in view of the submissions made by the Counsel for NBSA before the Bombay High Court, which is reflected in its Order dated 10.9.2020.

In any event, the complainant submitted that the contentions of the broadcaster regarding procedural & format defaults and limitation should not come in the way of NBSA looking into the complainant as NBSA is the "hallmark" of self-regulation and if it dismisses the complaint on technical preliminary objections/grounds, "self-regulation" would collapse. A matter like this required indulgence, the technical preliminary objections should be waived, and the complaint should be heard in detail and be dealt with authoritatively by NBSA on substantive grounds.

The complainant further submitted that the complaint in respect of the issue in question and the decisions taken by NBSA and filed before the Bombay High Court on 6.11.2020 did not deal with the issue of media trial. In view of the above submissions, the complainant requested NBSA to hear the specific complaint against each broadcaster individually, which according to the complainant, had violated the Code of Ethics & Guidelines.

The complainant stated that, in fact, after the judgment of the Hon'ble Bombay High Court in *Nilesh Navalakha & Ors. v. Union of India & Ors* dated 18.1.2021 (Order), some broadcasters had deleted the links of the impugned broadcasts, which would amount to an implied admission of guilt. Further, he stated that since the matter had been dealt with authoritatively by the Bombay High Court by laying down guidelines in respect of media trial, therefore NBSA should also deal with the specific allegations made against each broadcaster.

The complainant submitted that in the PIL, specific grievances were made against the broadcasters which was also made the basis for the complaint before the Authority. The written submissions dated 30.10.2020, were filed by it as per the liberty granted by NBSA. He reiterated that the complaint dated 16.9.2020 was the genesis of the present complaint and the written submissions dated 30.10.2020 were merely branches arising from the same root.

After considering the submissions of the broadcasters and the complainant, NBSA decided that it has to first deal with the issue of maintainability of the complaint before considering the complaint on merits.

### **Decision**

NBDSA (formerly NBSA) looked into the complaint and the written submissions filed by the complainant against the broadcasters, response received from the broadcasters and also gave due consideration to the arguments of both the complainant and the broadcasters.

At the outset, NBDSA noted that the broadcasters had raised preliminary objections to the maintainability of the complaint under the News Broadcasting Standards Regulations (Regulations) on the grounds of Procedure, Format, Limitation and Locus Standi. In fact, the complainant himself had agreed that any preliminary objections to the maintainability of his complaint should be heard before proceeding with arguments on merits. Therefore, NBDSA decided to deal with each of the preliminary objections separately.

### **Locus Standi:**

In respect of the submissions of the broadcasters that the complainant has no locus to file the present complaint, NBDSA referred to Clause 1.5 of the Regulations, which states "*Complainant*" means "*a person or association of persons or organization or corporate entity, who or which, makes a complaint to the Authority regarding a broadcaster in relation to, in respect of and/ or arising from any matter which the Authority has jurisdiction to entertain, examine and decide under these Regulations*". In view of the above, it observed there was no substance in the broadcasters' argument that only the aggrieved party could approach the Authority. As per the Clause above, the complainant was within

its rights to make a complaint to the Authority even if he was not the affected party. Therefore, this submission of the broadcaster is not accepted.

**Limitation:**

Having held that the complainant had the locus to file the complaint, NBDSA took up the next preliminary objections of the broadcasters on limitation.

NBDSA noted that the Hon'ble Bombay High Court vide its Order dated 10.09.2020 had stated that the proceedings pending before the High Court would not preclude NBSA from dealing with the complaints that have been received by it, this would imply that NBSA was given liberty to go ahead and consider and decide those complaints which had been received by it prior to 10.09.2020. However, while considering these complaints, NBDSA is supposed to consider the complaints as per provisions contained in the News Broadcasting Standards Regulations.

NBDSA also observed that Order dated 10.09.2020 of the Hon'ble Bombay High Court did not grant the complainant any permission or liberty to come before NBDSA. In fact, the observation in the Order was to consider the complaints that had already been received by it before 10.09.2020. Therefore, NBDSA is supposed to consider and decide the complaints that had been filed before Order dated 10.09.2020 was passed by the Hon'ble Bombay High Court. Any complaints filed after 10.09.2020 also need to be considered and decided by NBDSA, however, such complaints would have to be looked into from the point of view of limitation, the date on which these are filed and keeping in view the provision contained in the Regulations, particularly Regulation 8.1.6 thereof.

NBDSA, therefore proceeds to examine the complaint keeping in mind the aforesaid parameters.

In so far as the complaint dated 16.9.2020 is concerned, it's generic in nature and doesn't mention about any specific news broadcast or programme, apart from the fact that it was directly sent to the Authority without first approaching the news broadcasters. Further, the complaint was a replica of the averments made in the writ petition, which the Hon'ble High Court has already dealt with. On being requested to send separate links for each broadcaster, subsequently the complainant sent the links on 30.10.2020.

It may be mentioned that in terms of Regulation 8.1.6, the complainant is supposed to approach the broadcaster at the first instance and approach to NBDSA is only when the complainant is not satisfied with the response given by the broadcaster. Furthermore, the complainant is supposed to approach the broadcaster within 7 days from the date of the impugned broadcast.



In view of the fact that the Hon'ble Bombay High Court had not granted the complainant the liberty to approach NBSA, in the instant case, the complainant should have approached the broadcasters at the first level before approaching NBDSA directly and therefore, the complainant had not exhausted the remedy provided under Regulation 8.1.6. Filing of complaint in such manner is therefore not in accordance with the procedure prescribed in the Regulations. Notwithstanding the same, it is barred by limitation as well in view of the fact that the complaint was made beyond the period of 7 days from the date of broadcast prescribed in the Regulations. As per the Regulations, the complaint would not only be time barred but would also not be in accordance with the procedure stipulated under the Regulations.

Furthermore, NBDSA has already opined in other cases that the Regulations do not give any power to it to condone the delay in filing such complaints at the first level. NBDSA, therefore, decided to dismiss the above complaint on the ground that it was filed beyond the period of limitation permitted under the Regulations.

NBDSA also finds that, in any case, the complaint has served its purpose. In this behalf, NBDSA noted that the complainant had stated that some of the links in respect of the offending broadcasts had been deleted/removed by the broadcasters.

NBDSA also noted that the Hon'ble Bombay High Court had extensively dealt with the issue of media trial and laid down detailed guidelines for media houses to follow in respect of media reporting of any ongoing criminal investigation. In view of this fact and the fact that NBDSA has already issued Advisories dated 6.11.2020 and 20.2.2021, the broadcasters are expected to adhere to the Order dated 18.01.2021, the Specific Guidelines Covering Reportage – 3.3, 3.4 & 3.5 and the Specific Guidelines for Reporting Court Proceedings - Clause 6 along with the aforementioned Advisories in all future broadcasts pertaining to reporting on ongoing criminal investigations.

NBDSA decided to inform the complainant and the broadcasters accordingly.

NBDSA directs NBDA to send:

- (a) A copy of this Order to the complainant and the broadcasters;
- (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.

**Sd/-**

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

**Place: New Delhi**

**Date : 27.01.2022**