

**News Broadcasting & Digital Standards Authority**  
**Order No. 125 (2022)**

**Order of NBDSA (formerly known as NBSA) on complaint dated 28.11.2021 from Mr. Indrajeet Ghorpade against ETV Telangana for airing a programme on 28.11.2021**

Since the complainant was not satisfied with the response of the broadcaster, the complaint was escalated to the second level i.e., NBDSA.

**Complaint dated 28.11.2021**

The complainant stated that the video aired on ETV Telugu showed videos of private individuals captured and telecast without their consent. Further the person being interviewed in the broadcast made unsubstantiated claims about the sexual orientation of the attendees of the party. As per Supreme Court's *KS Puttaswamy (Retd) vs. Union of India and Ors WP (C) 494/2012* verdict, sexual orientation is an essential attribute to privacy and must be protected. The *Navej Singh Johar & Ors. v. Union of India thr. Secretary Ministry of Law and Justice* 2018 verdict of the Supreme Court also held that sexual orientation of a person is protected under Right to Privacy. The channel has violated NBDSA's Code of Ethics related to Privacy and Accuracy.

The complainant therefore urged the broadcaster to telecast an apology in respect of all those whose privacy had been violated by the broadcast. Additionally, he also requested the broadcaster to remove the video from all the platforms on the internet where it has been uploaded.

**Reply dated 4.12.2021**

The broadcaster stated that the nature of the grievance is not known. The complainant has not stated whether he was personally aggrieved by the impugned news report or if he had filed the complaint on behalf of someone else.

The broadcaster submitted that they had received information from the local Police about the raid conducted by them at a private residence. Pursuant to complaints by the local residents, police had registered as FIR in crime No. 1244/2021 dated 28-11-2021 of Kukatpalli Police Station, under Sections 188, 269, 290 IPC, s. 20(2) OF COTPA (Cigarettes and Other Tobacco Products [Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003] Sec 21/76 City Police Act and 34 (A) of Telangana Excise Act. The complaint was made about disturbance caused to them on account of high decibel sound and vehicular movement caused by weekend parties conducted in the house. The visuals that were broadcast were recorded and was supplied by the Police. As such, the allegation that the broadcaster had intruded into anybody's residence and violated

their privacy is wrong. Consequently, the citations of Supreme Court judgement are not applicable to the case on hand.

The news was a factual report on the raid conducted by the Police on a house and arrest of 44 individuals on charges of causing public nuisance; distribution of tobacco products without containing specified warning and the nicotine and tar contents and other offences. The news was based on information and visuals supplied by the Police and the statement of the Police Inspector. The Police has also supplied a copy of FIR in Cr. No. 1244/2021 of Kukatpally Police Station, to the broadcaster.

The broadcaster stated that a raid conducted by the Police and arrest of persons for causing public nuisance in a residential neighborhood and various other offences is a matter of public concern. The impugned news report was broadcast purely in public interest and was based on public records. Therefore, it stated that by airing the impugned news report it had not violated Code of Ethics related to Privacy and Accuracy.

In respect of the demands of the complainant, the broadcaster stated that it stands by the news report and as such the question of apology does not arise. Without prejudice and purely as a matter of courtesy, it had on 30.11.2021 deleted the impugned news report from YouTube.

**Further reply dated 4.12.2021 by complainant to broadcaster:**

Complainant sought the following clarifications:

1. Did the Police inform ETV about the sexual orientation of the attendees at the event?
2. Did the police order ETV to disclose private information about the sexual orientation of the attendees on ETV or was this the channel's decision?

**Email dated 16.12.2021 from the channel to NBDSA**

In response to the questions raised in the mail dated 4.12.2021, the broadcaster stated that the impugned broadcast made no reference to any sexual orientation nor disclosed the sexual orientation of any of the participants of the party and therefore the complaint itself was misconstrued and secondly, the grievance of the complaint is not known. The complainant has failed to state how he is aggrieved by the impugned news broadcast. Even assuming that he is a member of public interested in ethical and professional journalism, there is no reference to sexual orientation of any of the participants of the party and the complaint was totally misconceived and frivolous.

**Decision of NBDSA at its meeting held on 8.1.2022**

NBDSA considered the complaint and the response from the said broadcaster. NBDSA decided that the broadcaster and the complainant be called for a hearing.

On being served with notices, the following persons were present at the hearing held on 10.2.2022:

**Complainant:**

Mr. Indrajeet Ghorpade

**Broadcaster:**

**Eenadu Television Pvt. Ltd. [Channel: ETV Telangana]**

Mr. G V S Jagannadha Rao, Compliance Officer, NBDSA

Mr. N Rajendra Prasad, News Editor

**Submissions of the Complainant:**

The complainant submitted that his grievance was regarding the coverage of a police raid in Hyderabad. The complainant stated that there was a house party held in Hyderabad, which was attended by a few men (approximately 40 men as per reports), and a police raid was conducted because some people in the locality had filed a noise complaint. Subsequently, the Police filed an FIR against the house party organizers because they did not have permission to organise the party.

The responding channel has claimed in their response that the Police provided them with a video that was recorded by them at the party in which faces of all most all the participants who were present at the party could be seen. The complainant submitted that this video was then broadcast by the channel without blurring the faces of the individuals in the video. Further, while broadcasting the video, claims were also made by the channel about the sexual orientation of the people seen in the video. Further, the broadcaster had aired the interview of a man claiming to be someone living in the locality around the venue of the party who alleged that a gay party was happening and also claims by so-called witnesses who were present there who alleged that the party was a rave party, which the complainant stated in the Indian context mainly refers to a party where drugs and illegal substances are consumed.

The complainant asserted that by airing the impugned news reports, the broadcaster had violated the judgment of the Hon'ble Supreme Court in *Justice KS Puttaswamy (RETD) v. Union of India and Ors WP (C) 494/2012* wherein it was held that the right to privacy is protected as an intrinsic element of the right to life and personal liberty under Article 21 and as a constitutional value which is embodied in the fundamental freedoms embedded in Part III of the Constitution. That "*Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination*". Further, Justice Chandrachud in the same judgment had observed that that sexual orientation is an essential attribute of privacy and must be protected and the right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Articles 14, 15

and 21 of the Constitution. Furthermore, in the *Navej Singh Johar & Ors. v. Union of India thr. Secretary Ministry of Law and Justice* which read down Section 377, the Hon'ble Supreme Court held that the sexual orientation of a person is protected under the right to privacy.

Therefore, the complainant submitted that by broadcasting the videos which exposed faces of private individuals and by making claims about their sexual orientation, the broadcaster had violated the right to privacy guaranteed by the Constitution and had also violated the Code of Ethics & Broadcasting Standards.

The complainant stated that in the year 2011, the then Chairperson of NBSA, Justice Verma (former Chief Justice of India) had also dealt with a similar case again from Hyderabad regarding a report that TV 9 Telugu had aired about gay culture in Hyderabad, which ended up violating the privacy of several gay men. While dealing with that complaint, NBSA had imposed a fine of Rs. 1 lakh on the channel and had also ordered them to air an apology twice a day for three consecutive days in slow pace.

In view of the above strong precedent set by the Authority, the complainant requested that since once again the channel had violated the right to privacy, strict action should be imposed against the channel to dissuade them from violating the privacy of private individuals. That merely taking down the videos from the internet is not sufficient as the damage has already been done and the only way to deter the channel from committing such violations in future is to go by the precedent and make sure that very strong action is taken.

The complainant submitted that he would like to bring to the attention of the NBDSA the repercussions of airing such news reports. He stated that members must be aware of how the society perceives the Hijra community who face discrimination not just from the society but from their own family members as well. That when the impugned news reports were aired, the entire Hijra community was immediately triggered because they have been facing a serious housing problem, especially in Hyderabad during the Covid-19 lockdown. That most areas in Hyderabad are extremely transphobic, and even people with jobs are not able to get accommodation despite them having the capacity to pay for such accommodation and all the legal documents required to get housing on rent. So when such programmes about the party where hijras were dancing obscenely, drugs and condoms were found was reported, stigmatised and marginalised the community further and created problems for them, beginning with the housing problems. That there have been several cases during the lockdown where people have been kicked out by their landlords in the middle of the night from their housing and the Police had to intervene. The NGO with which he was associated with had to create a separate cell for the protection of trans people in the Hyderabad HITEC city area.

The complainant submitted that when claims such as one made in the impugned news reports are made by the channel, it tarnishes the entire community. That his grievance is not only about the misinformation shared by the channel but also on its impact, how it furthers the transphobia that already exists in Hyderabad.

The complainant submitted that he had personally attempted to do crisis calls and arrange counselling and shelter home for two men who were present at this party whose faces were shown in the video. The complainant stated that these men had to face physical violence from their family and friends merely because they were present at the party and the channels had taken the liberty to show their faces and claim that homosexuals were present at this party.

The complainant submitted that the defence of the channel that the video was provided by the Police and was therefore aired was not acceptable. Since sexual orientation is protected under the right to privacy, the broadcast of the video showed how careless, insensitive and unknowledgeable the channel is about the rights of the citizens of this country. That while the Police can provide all kinds of evidence including the footage, it is the responsibility of the channel to determine what is aired. He stated in the present case, even the Police had been cautious and had not mentioned the word homosexual anywhere in the FIR.

The complainant submitted that since the broadcast was appalling and extremely hurtful not just for the people whose identities had been exposed but also for the larger community in Hyderabad, merely directing the channel to take down videos of the impugned broadcasts was not enough. Keeping in mind the precedent already set by the Authority in its earlier decision on a similar subject, the complainant requested to take similar action against the erring broadcaster.

### **Submissions of ETV Telangana**

The broadcaster submitted it had not made any claims regarding the sexual orientation of any participants in the entire broadcast save and except one word used by a local resident. That the intent behind airing the impugned news report was to cover a simple case of public nuisance, based on the information received by it from the local Police about the raid conducted by them at a private residence, pursuant to a complaint made by the local residents, registered as FIR in crime No. 1244/2021 dated 28-11-2021 of Kukatpalli Police Station, under Sections 188, 269, 290 IPC, s. 20(2) OF COTPA (Cigarettes and Other Tobacco Products [Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003]) Sec 21/76 City Police Act and 34 (A) of Telangana Excise Act.

The news was a factual report on the raid conducted by the Police on a house and arrest of 44 individuals on charges of causing public nuisance: distribution of tobacco products without containing specified warning and the nicotine and tar

contents, and other offences. The broadcaster stated a copy of the FIR in Cr. No. 1244/2021 of Kukatpally Police Station was supplied by the Police.

Additionally, the broadcaster submitted that it had also filed a translation of the impugned broadcast in which the Authority would find no mention about sexual orientation save and except the byte of a resident who said “*We are residents of this colony. Every week 40 to 50 people gathered here for rave or gay parties*”. The broadcaster reiterated that at the time of airing the impugned news report its focus was on reporting this incident of public nuisance and therefore it did not lay stress on this one single word that was spoken by a local resident. In respect of the visuals broadcast in the impugned news report, it was reiterated that that the channel had broadcast the video provided by the Police.

The broadcaster submitted that the news relating to a raid conducted by the Police and arrest of persons for causing public nuisance in a residential neighbourhood and various other offences was a matter of public concern and is worthy of publication and the broadcaster had therefore broadcast the impugned news report purely in the public interest. Further, the broadcaster relied on the judgment of the Hon’ble Supreme Court in *R.Rajagopal vs. State of Tamil Nadu* AIR 1994 SCC 6 (634), which was upheld in *KS Puttaswamy* to state that since the news report was based on public records it did not amount to defamation or violation of right to privacy.

Furthermore, it submitted that it would have carried the impugned news report irrespective of the sexual orientation of the individuals involved. It reiterated that the impugned broadcast was in public interest, and its focus was not on one word uttered by the neighbour. The impugned broadcast was not on LGBTQIA+ but only on public nuisance.

### **Decision**

NBDSA looked into the complaint, response from the broadcaster, and also gave due consideration to the arguments of the complainant and the broadcaster and the script of the broadcast.

NBDSA noted that the media has the freedom to report on issues which are of public interest including subjects pertaining to instances causing public nuisance and on crimes irrespective of the sexual orientation of the accused.

In the present case, the broadcaster had stated that its news report was based on information provided by the Police Authorities and pertained to public nuisance being caused by a party held in the neighborhood. It was stated that the said broadcast was aired in public interest. The broadcaster had removed the videos of the programmes on receipt of the complaint.

After viewing of the footage of the broadcast, NBDSA found that the broadcast was essentially relating to a raid conducted by the Police and arrest of persons for causing public nuisance by house party being held in a residential neighbourhood. The substance of the broadcast was not the sexual orientation of the persons attending the party. In view of above, NBDSA found no violation of the Code of Ethics and Broadcasting Standards and/or Guidelines in the broadcast.

NBDSA decided to close the complaint 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 : 31.03.2022**