

**News Broadcasting & Digital Standards Authority**  
**Order No. 127 (2022)**

**Order of NBDSA (formerly known as NBSA) on complaint dated 28.11.2021 from Mr. Indrajeet Ghorpade against TV9 Telugu 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 reporter had shared misinformation claiming that the event was attended by members of the Hijra community. This information was false as no member of the Hijra community was present at the event, nor has there been a case filed by the Police against any member of the Hijra community. Moreover, the channel had shown images of private individuals present at the event and violated their privacy by making claims about their sexual orientation. The complainant stated that as per the judgment of the Hon'ble Supreme Court in *KS Puttaswamy (Retd) v. Union of India and Ors. WP (C) 494/2012*, sexual orientation is an essential attribute to privacy and must be protected. Further, the Hon'ble Court in *Navej Singh Johar & Ors. v. Union of India thr. Secretary Ministry of Law and Justice* also held that the sexual orientation of a person is protected under the Right to Privacy. Additionally, in the impugned programme, the reporter also spoke about condoms in a poor light as if possession of condoms was an immoral, illegal or criminal act. By airing the impugned programme, the broadcaster violated the Code of Ethics & Broadcasting Standards pertaining to accuracy, fairness, privacy, good taste and decency.

Therefore, the complainant urged the broadcaster to telecast an apology to all those whose privacy had been violated and to the Hijra community in particular for spreading misinformation about the presence of its members at the said event. Additionally, the complainant also requested the broadcaster to remove videos of the impugned programme from all the platforms on the internet.

**Reply dated 4.12.2021 from the broadcaster:**

The broadcaster stated that the news report aired was regarding the raid at the party, and it never intended to violate the privacy of any individual. The news report broadcast was based on the information given by the Police, and the video was also been released by the Police. Further, the impugned news had also been in wide circulation across electronic media. The broadcaster denied that its reporter spoke about condoms in poor light as if possession of condoms was an immoral, illegal or a criminal act. Furthermore, the broadcaster denied that its news report had violated

the Code of Ethics & Broadcasting Standards pertaining to accuracy, fairness, privacy, good taste and decency as alleged.

The broadcaster submitted that they have absolutely no intention of invading anybody's privacy and out of good faith and love and respect towards the Hijra community they had deleted the impugned video from the YouTube website and all other platforms on the internet.

The broadcaster stated that they have great respect for the community. That their intention behind airing the impugned news report was never to spread misinformation about the Hijra community.

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

The complainant questioned the broadcaster that regardless of the information provided by the Police was the broadcaster not aware that sexual orientation is a protected characteristic under the Right to Privacy. Further, he asked the broadcaster whether the police ordered/forced the broadcaster to telecast the videos of private individuals and disclose their sexual orientation or was it the channel's decision?

He stated that as a national news channel, the broadcaster is expected to know better about the law of land and the rights of its citizens. *"The police provided us this information"* is not a valid excuse for violating the privacy of private individuals.

He also questioned the broadcaster whether it was aware of the consequences of outing people's sexual orientation without their consent? Furthermore, he stated that the broadcaster's coverage related to the LGBTQ+ community has historically been unsatisfactory and violative, which is unacceptable and condemnable. The complainant suggested the broadcaster maybe hire a consultant from the LGBTQ+ community and run reports related to the community to ensure that its coverage related to the community improves.

**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 on 10.2.2022:

**Complainant:**

Mr. Indrajeet Ghorpade

**Broadcaster:****Associated Broadcasting Co. Pvt. Ltd. [Channel: TV9 Telugu]**

Mr. V. Rajnikanth, Managing Editor

Mr. RVS Sunil, Sr. Manager - Legal

**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 that was being 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. This video was then broadcast by the channel on television 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. In the broadcast, the channel had also claimed that two hijra's were partying like crazy and that several homosexuals had been arrested. The complainant stated that in its submissions, the channel had stated that the impugned news had also been repeated a few times by it. Therefore, he would like to know from the channel if the video was repeated in each of these broadcasts throughout the day because the claim that homosexuals were arrested had been made several times during the day.

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 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 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 the broadcaster 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 Rupees one 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 TV 9 was a repeat violator when it comes to targeting the LGBTQIA+ community. To cite a few examples, the complainant stated that a case was pending before the Hon'ble Delhi High Court against TV9 Marathi, which is also a part of the TV9 group for promoting the illegal and inhuman practice of conversion therapy which involves forcefully subjecting the LGBTQIA+ individuals to unscientific methods that unsuccessfully and forcefully attempt to alter one's sexual orientation or gender identity. There was another case pending with the Ministry of Information and Broadcasting against TV9 Marathi in respect of a broadcast, wherein the channel had invited a guest speaker who once against preached conversion therapy and shared gross misinformation about the LGBTQIA+ community. The NBSA Order from 2011 was also in respect of a complaint involving the group.

The complainant submitted that he would like to bring to the attention of NBDSA the repercussions of airing such news reports. He stated that the 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. 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. 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. Hence, when such programmes about the party

where hijras were dancing obscenely, drugs and condoms were found was reported, it stigmatised and marginalised the community further and created problems for them, beginning with the housing problems. 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 the complainant was associated had to create a separate cell for the protection of trans people in the Hyderabad HITEC city area.

The complainant submitted that when such claims are made in the impugned news reports by the channel, it tarnishes the entire community. 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. 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.

He submitted that since the broadcasts were appalling and extremely hurtful not just for the people whose identities had been exposed but also for the larger community in Hyderabad, therefore 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 TV9 Telugu**

The broadcaster stated that it has the utmost respect for the LGBTQIA+ community, and it has aired several videos to show the sufferings of the community, which the complainant did not appreciate, rather the complainant has, in the present case, raised allegations over the impugned broadcast.

The broadcaster stated that they are conscious of the right to privacy and is the only channel to take special measures, including in the impugned broadcast, to ensure that they don't broadcast any programme which may intrude on the right to privacy of the citizens. In the present complaint, since everyone was wearing a mask and

their identities were adequately concealed, the broadcaster did not find the need to blur the video.

The broadcaster denied that they had shown condoms in a bad light. The broadcaster submitted that it had merely reported that condoms were found in the raid. The broadcaster further denied that it had reported that ganja was found in the raid. The broadcaster stated that while it did comment on the presence of members of the hijra and homosexual community in the party, it submitted that the impugned news report was based on a Police complaint lodged by a neighbour's regarding the party. Based on the police complaint, a raid was conducted and the local Police inspector present on the scene informed them that the organizers were gay men who were running a massage parlour, and the FIR was lodged afterwards.

The broadcaster stated that after receiving information regarding the raid, it had first confirmed the raid with their Police sources, and it was the Police themselves who informed the broadcaster regarding the organizers of the party who were members of LGBTQIA+ community and regarding the WhatsApp conversations including the materials found during the raid.

Further, the broadcaster stated that being a responsible channel, it only airs authenticated news. It questioned the complainant as to why it could not broadcast information authenticated by Official Authorities. The broadcaster submitted that it had been informed about facts regarding the raid by the Police. In the broadcast, it had not revealed the name of any person present in the party, and the video itself was in dull lighting, therefore, there was no question of violation of Code of Ethics & Broadcasting Standards in the impugned broadcast.

The broadcaster reiterated that it had covered various stories on the sufferings of the LGBTQIA+ community and was willing to share the details thereof if required with the Authority. The broadcaster submitted that since the earlier complaint filed against it, it had undertaken several measures to sensitize itself regarding the LGBTQIA+ community and to protect the right to privacy of the citizens.

NBDSA questioned the complainant as to how he came to the conclusion that the identity of the individuals present in the party was disclosed by the broadcast since it was the contention of the broadcaster that their identity was adequately concealed because they were wearing a mask. In response, the complainant submitted that the NBDSA Guidelines provide for blurring, and in the absence thereof, it was possible that the persons shown in the video could be identified by their family members. The broadcaster stated that merely because there was a possibility that the person in the video could be identified by family members, the complainant could not claim that their privacy was violated. In response to the submission of the broadcaster, NBDSA noted that the broadcaster might not be entirely correct in its submissions,

if the identity of the individual can be revealed to even one person, then the right to privacy of that individual may be violated.

NBDSA also questioned the broadcaster whether there was any larger identifiable public interest behind airing the impugned news report. The broadcaster submitted that the Police had, based on complaints of local residents living in the locality, conducted a raid which was recorded by video. That since more than 200 residents lived in the locality, it had covered the raid in the public interest.

The broadcaster stated that TV9 Telugu is an 18-year-old channel that has been working responsibly and covering stories in public interest. That it had received information regarding the raid through its call centre, based on which the broadcaster went to the location of the raid and obtained bytes from residents regarding the raid. The impugned news report was aired only after obtaining information from the Police and a byte from the Police Inspector. It had covered the impugned news report only because the matter related to the public nuisance caused due to the party, which was organized in a residential area without permission, where alcohol was being consumed.

### **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.

On a viewing of the footage of the broadcast by TV9 which was aired several times during the day, it was found that the broadcaster had made the following statements in the programmes *“arrested two Hijras along with 44 youths”, “Two Hijras .. partying like crazy”, “All those arrested in the incident are suspected to be homosexuals. We also heard about the Rave Party .. But this is a new type of party. All of them are boys .. Two hijras along with them .. Condom packets on the table .. This is the total screenplay. flash lights, costly liquor, hookah bottles ..”, “More than 40 young people .. Two Hijras .. dancing obscenely .. partying like crazy. This is not in the suburbs. Weekend party in Kukatpally” “Locals say that such parties are happening every week. They alleged they partying in gay culture”.*

The comments/statements in the aforementioned broadcast were not factual and gave the perception that most of the individuals at the party were from the LGBTQIA+ and/or hijra community and members from this community were arrested during the raid conducted by the Police. Since this was not accurate reporting, the broadcast had violated the Principle of Accuracy as enshrined in the Code of Ethics and Broadcasting Standards and under the Specific Guidelines Covering Reportage.

NBDSA observed that caution should have been exercised by the broadcaster while broadcasting the comments of the Police mentioning the sexual orientation of the persons involved, particularly as subsequently it came to light that the FIR did not mention the community and the broadcaster should have been sensitive to the fact that the aforementioned community does face discrimination and facts related to them should be broadcast in a sensitive manner. In view of Clause 5.2 of the Specific Guideline Covering Reportage, which states *“Persons should not be featured in content in a manner that denigrates or discriminates against sections of the community on account of race, age, disability, sex, sexual orientation, occupation, religion, cultural or political beliefs”*, there would not have been any problem if the thrust of the programmes was on nuisance per se. However, NBDSA found that the incident is twisted by unnecessarily involving LGBTQIA+ and/or hijra community without proper verification, which turned out to be factually incorrect. It is clarified that in a given case, if a person belonging to such community is found to be a violator of law, mentioning so may not be wrong. However, accusations against persons of this community have serious social repercussions, making mindless allegations needs to be deprecated.

In view of the above, NBDSA expressed strong disapproval about the manner in which the programme was aired ignoring the sensitivity towards the LGBTQIA+ and/or hijra community and repeat of similar broadcasts in future will be viewed seriously.

NBDSA decided to close the complaint and inform the complainant and the broadcasters 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**