

News Broadcasting & Digital Standards Authority
Order No. 134 (2022)

Order of NBDSA on complaint dated 9.11.2021 from Ms. Priyamol H.S. against Kairali News for airing a programme on 14.10.2021

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

Complaint dated 16.10.2021

The complainant stated that on 14.10.2021, a news was broadcast against her on the news channel Kairali TV in connection with one of her Facebook posts. In the impugned news report, the channel also aired a picture of her daughter who had nothing to do with the matter. Since this news was still circulating on social media, she requested for action to be taken against the channel for airing images of innocent people with such false news and for the channel to withdraw the news.

Further complaint dated 21.10.2021

The complainant stated that she was aggrieved by a news item broadcast on 'Kairali News' Television Channel on 14.10.2021 which clearly violated the Code of Ethics & Broadcasting Standards as well as associated Guidelines.

She stated that on 01.10.2021, she had shared a post on her Facebook account. A grievance regarding the said Facebook post was reported to Venjaramoodu Police Station, Thiruvananthapuram District, Kerala, by the informant, one Mr. Aravind J.A, Treasurer, Venjaramoodu Area Committee of the Democratic Youth Federation of India (DYFI).

Since the grievance received from the said Informant revealed only a Non-Cognizable offence, the Station House Officer (SHO) of the said Police Station forwarded the matter to the Hon'ble Judicial Magistrate of the First Class (JFMC-1), Nedumangad, Thiruvananthapuram District, Kerala. Consequently, CMP No. 1273/2021 was registered and the Hon'ble JFMC-1, Nedumangad issued an order for investigation of the case.

Accordingly, FIR No. 2241/2021 dated 4.10.2021 of Venjaramoodu Police Station, Thiruvananthapuram District, Kerala, was registered against her for a Non Cognizable offence punishable under section 120(o) of the Kerala Police Act, 2011.

Subsequently, on 12.10.2021, the complainant stated that she appeared before the Station House Officer (SHO), Venjaramoodu Police Station, Thiruvananthapuram District, Kerala to ensure her attendance before such Officer on every day on which any investigation with regard to the charge levelled against her was being held. In a non-cognizable case, the police officer lacks the power to arrest without a warrant from the concerned Magistrate and there was no warrant of arrest issued to arrest her in the aforementioned non-cognizable case.

However, on 14.10.2021, the broadcaster aired a news item after 03:00 pm , claiming that she (Priyamol H.S also known as ‘Priya Vinod’) was “arrested” in connection with the aforementioned non-cognizable case. Further, in the broadcast, some photographs of the complainant’s daughter, who is a student at the University of Delhi and a complete stranger to the aforementioned case were aired.

She stated that since then, the said inaccurate and unfair news has been circulating in social media causing much harm to her, her daughter and her family. Further, as a result of the impugned broadcast, several questions were being posed to her by her old students, well-wishers and general public regarding the veracity of the news aired by the broadcaster.

The complainant alleged that the news coverage indicated prejudicial reporting and sensationalism. The inaccurate content was offensive, violated privacy and affected the dignity of the complainant and her family and also led to her and her family facing harassment, humiliation and hardships.

Furthermore, she stated that since photographs of her daughter exhibited during the news broadcast were aired out of context, her innocent daughter was getting enquiries regarding the news item and was unnecessarily facing questions pertaining to the case against the complainant. That she had brought the grave incident to the notice of the broadcaster through her letter dated 16.10.2021; however, she had received no response.

In the aforementioned circumstances, the complainant stated that ‘Kairali News’ has violated the Code of Ethics & Broadcasting Standards as well as Specific Guidelines covering Reportage relating to Accuracy, Impartiality & Objectivity in Reporting. The broadcaster did not carry out due-diligence to ascertain the accuracy of the news/ information pertaining to the proceedings in her case. The broadcaster also failed to impart accurate and duly verified information pertaining to the proceedings in an attempt to sensationalize the matter. Further, she stated that it was also unfair on the part of the broadcaster to publish the photographs of her innocent daughter during the news broadcast.

The broadcaster also violated the Code of Ethics & Broadcasting Standards as well as Specific Guidelines covering Reportage relating to Privacy. As per the Code and Guidelines, care should have been taken by the broadcaster to not reveal the details of the families of the accused to ensure that the reporting does not violate a citizen’s right to privacy or expose him/her to any harm. Such specific care was however, not exercised by the broadcaster who had aired visuals pertaining to her daughter, who was not at all involved in the aforementioned case. Further, she stated that no public interest would have been served by the publication of the photographs of her daughter while reporting the non cognizable case registered against the complainant.

The broadcaster with malafide intention exposed the complainant’s family member and miserably failed to adhere to the requirements for privacy under the Code and Guidelines.

The impugned broadcast was also in violation of the principle of Corrigendum enshrined under the Code of Ethics & Broadcasting Standards and violated Guidelines on Broadcast of Potentially Defamatory Content. In short, under the Guidelines before broadcasting any sensitive matters, the broadcaster must take necessary steps to ascertain its veracity and credibility. In the present context, the use of word “arrest” was sensitive as a common man picturizes arrest as police custody, hand-cuffs, interrogation and production of the arrested person before a court of law. Therefore, television channels are required to verify whether the person was arrested since “arrest” is associated with disgrace not only to the person but also to the person’s family members. However, prior to airing the impugned broadcast, the broadcaster did not contact the complainant or her family members to verify the news whether she was arrested or not.

In the light of the above, the complainant stated that the broadcaster has clearly violated the Code of Ethics & Broadcasting Standards as well as various Guidelines for Reporting thereby, putting her and her family through irreparable injury and hardships.

In view of the foregoing, the complainant desired the broadcaster to :

- 1) Immediately delete the videos of the said news item pertaining to her case, if hosted on any online media such as Kairali Channel’s website or YouTube or other links;
- 2) Air an apology for not conducting due diligence prior to telecasting news pertaining to her case.

The complainant also requested for a video recording of the apology with Date & Time Stamp to be sent to her within seven (7) days from the date of receipt of this complaint.

Reply dated 1.11.2021 from the broadcaster

The broadcaster stated that the news aired on Kairali News channel on 14.10.2021 was not merely regarding a ‘Facebook Post’ as alleged by the complainant. The complainant had posted a morphed picture of Mr. A.A. Rahim, the All India President of the Democratic Youth Federation of India, thereby falsely associating him to one Mr. Monson Mavunkal who is the prime accused in numerous cases which are presently under investigation of the Police Crime Branch of the State. The illegal act misled the public and against this a complaint was filed before the Venjaramoodu Police and a case was registered in this regard.

The news was telecast on its news channel after proper communication with the SHO of the concerned Police Station and the information so received, which was also aired by various other news channels and online media. Consequently, the claims of the complainant that the news was ‘unfair’, based on ‘biased information’ and ‘lacked accuracy’ were false and strongly denied. The contents of the news were ‘accurate’, ‘duly verified’ and unbound from ‘distortion’. It had also duly observed and maintained Impartiality and Objectivity in reporting during the impugned telecast.

The broadcaster stated that since the content attributed to genuine news, there was no requirement for 'corrigendum'. To the best of its knowledge and according to the information verified with the authorities, there was no distortion of facts of the case. Hence the complainant's allegations were improper, unwarranted and baseless.

The initial letter dated 16.10.2021 did not merit a reply as the pictures which claimed to invade privacy of the complainant's daughter were pictures taken publicly along with politicians like K. Sudhakaran and Priyanka Gandhi accompanied by other persons which are available and accessible to the public on the social networking platform 'Facebook'. The complainant's daughter whose picture are available was amongst the members of the public who attended the meeting along with the complainant. Also, during the report of the news, only '*the complainant's name*' was stated and there was absolutely no reference or remarks about any other individual in the broadcast. The broadcaster stated that this avoids any chances of ambiguity to the viewers regarding the details of the wrongdoer. Therefore, the claim that the broadcaster has breached the 'Privacy' was fallacious and denied firmly.

The broadcaster stated that it strictly adheres to the Code of Ethics & Broadcasting Standards as mandated by the NBDSA. Further, it had ensured the 'veracity' and 'credibility' of the news content, hence there was no merit in the complainant's allegations that 'defamatory content' was telecast on its news channel.

The news was broadcast after proper verification with concerned authorities. The complainant has while alleging 'false reporting' suppressed the fact that she was 'Arrested' under Sec 153 of IPC which is a 'cognizable offence' along with section 120 (o) of the KP Act and was later released on station bail. The reply to the RTI application filed by Mr. Aravind J.A., who is the petitioner in Venjaramoodu police Crime No: 2241/2021 clarifies the same. In the complaint on 21.10.2021 the complainant introduced herself as an active political person supporting the INC, which attracts public interest in the news item. Also, the news aired had no association with the complainant's daughter, which is evident from the translation submitted by the complainant.

Decision of NBDSA at its meeting held on 8.1.2022

NBDSA considered the complaint, response from the broadcaster and the translated script of the broadcast. NBDSA decided that the broadcasters and the complainant be called for a hearing.

On being served with notices the following persons were present at the hearing on 9.3.2022:

Complainant: Ms. Neelima V.P.

Broadcaster: Mr. PV Dinesh, Advocate

Dr. N.P. Chandrashekharan, Director (News and Current Affairs)

Submissions of the Complainant:

The authorized representative of the complainant submitted that on 14.10.2021, the broadcaster aired the impugned programme in which it was reported that the complainant was arrested and later released on bail, despite the fact that the complainant's name does not appear in the list of arrested person. She asserted that even though the broadcaster had claimed that the complainant was arrested and later released on bail, the broadcaster failed to produce copy of the arrest memo or the general diary or copy of bail bond support of its averment.

That the FIR was registered only under Section 120 (o) of the Kerala Police Act. Further, when the Court records were checked, an Additional Report was filed on 30.10.2021 by Venjaramoodu Police adding Section 153 of IPC, the same day on which the Complainant/ RTI Applicant put forward the RTI Application. Since the FIR contained only Section 120(o) KP Act, if any additional offence(s) incorporated were sought for, the RTI Applicant/ Complainant (*i.e., Mr. Aravind J.A*) ought to have sought the date on which such additional offence(s) was/were added. Thus, the the RTI Application dated 30.10.-2021 and RTI Response dated 04.11.2021 produced by the broadcaster before this Authority suffer from deficiency of information.

She submitted that the impugned news broadcast aired on 14.10.2021 only covered ingredients of Section 120(o) of the Kerala Police Act, 2011, *i.e., causing nuisance to the Complainant's comrade through an undesirable post in Social Media*. There was no reference to any ingredients that would constitute an offence under Section 153 of the Indian Penal Code, 1860 in the impugned broadcast. Further, if the broadcaster based his claim of the complainant's arrest on Section 153 IPC, it ought to have mentioned the same in its reply dated 01.11.2021. However, in the reply there was no mention regarding the same and the broadcaster has not produced any reliable material supporting its claim. Hence, she submitted that it could be reasonably concluded that on 14.10.2021, *i.e., the date of broadcast*, the broadcaster was only aware of the offence under Section 120(o) of Kerala Police Act however, in order to sensationalize the news, the broadcaster reported that the complainant was arrested.

Further, during the broadcast, the broadcaster unnecessarily aired her photographs *i.e., the complainants daughter's photographs* attracting uninvited attention and inquiry. Therefore, she requested the Authority to direct the broadcaster to remove the video links of the impugned programme in which her face was visible and direct the broadcaster to air an apology.

Submissions of the Broadcaster:

The broadcaster stated that it had inadvertently used photographs of the complainant's daughter in the broadcast. The broadcaster stated that the complainant had posted a morphed picture of Mr. A.A. Rahim, the All India President of the Democratic Youth Federation of India, falsely associating him to one Mr. Monson Mavunkal who is the prime accused in numerous cases which are presently under the investigation of the Police Crime Branch of the State. The illegal act misled the public and against this a complaint was filed before the Venjaramoodu Police and a case was registered under Section 120 (o) of the

Kerala Police Act and the Police under Section 155 of the Criminal Procedure Code arrested the complainant on 12.10.2021. The broadcaster submitted that the impugned broadcast was aired by it two days later i.e., on 14.10.2021 after proper verification with the concerned Station House Officer of the Venjaramoodu Police Station.

The broadcaster submitted that since the complainant is an activist of the Indian National Congress party, pictures of the complainant available to the public, taken during political functions along with Rahul Gandhi and Priyanka Gandhi accompanied by other persons were telecast. The broadcaster reiterated that it was not aware that the complainant's daughter was also in the photographs broadcast by it and therefore, it had not blurred her photographs.

NBDSA questioned the broadcaster whether it had in the impugned broadcast also reported the fact that the complainant was released on bail. The broadcaster referred to the transcript of the broadcast and stated that it had informed that the complainant was released on bail.

NBDSA questioned the broadcaster as to why it did not air a clarification regarding the photographs of the complainant's daughter which as per the broadcaster were inadvertently aired during the broadcast. In response to the question, the broadcaster reiterated that the photographs of the complainant's daughter were aired inadvertently by it. Further, the broadcaster submitted that it had not issued a clarification as it did not want to bring more uninvited attention to the complainant's daughter. Furthermore, that on receiving the complaint, it had removed the video of the impugned programme containing pictures of the complainant's daughter and submitted that it would be more cautious while airing such programmes in future.

The complainant rebutted the arguments of the broadcaster by asking on what basis had the broadcaster reported that the complainant was arrested when her name did not appear in the list of arrested persons. She reiterated that the broadcaster had not produced any evidence in support of its allegation that the complainant was arrested. Furthermore, she stated that the complainant had not morphed the pictures in question rather she had merely posted the morphed photographs on her social media handle which were subsequently deleted.

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 reviewed the transcript of the broadcast.

It was noted by the Authority that upon receiving the complaint regarding broadcasting of the photographs of the complainant's daughter in connection with FIR No. 2241/2021 dated 4.10.2021 lodged with the police station, the broadcaster had immediately taken down the said photographs from its website / YouTube etc.

However, the Authority observed that the broadcaster had not substantiated its submissions that a case had been registered against the complainant in respect of any cognizable offence or that the complainant was therefore enlarged on bail in respect of the same prior to the broadcast in question.

In view of the above, NBDSA finds that the broadcaster has violated the Code of Ethics & Broadcasting Standards relating to Accuracy and Privacy and expresses disapproval over the manner in which the photograph(s) of the daughter of the complainant were telecast.

NBDSA noted that since the photographs were taken down by the broadcaster from its website/other links and it admitted that the photographs were broadcast inadvertently, NBDSA directs the broadcaster to exercise caution while broadcasting images/photographs in connection with news stories to which such images/photographs have no connection and to be careful in future while airing news without verifying facts. NBDSA also directed the broadcaster to remove the video, if still available on the website of the channel or YouTube, or any other links and confirm to NBDSA in writing within 7 days of receipt of the Order.

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 : 13.06.2022