

News Broadcasting & Digital Standards Authority
Order No. 135 (2022)

Order of NBDSA on complaint dated 4.6.2021 by Citizens for Justice and Peace against Zee Hindustan for airing a programme on 30.5.2021

Since the complainant did not receive a response from the broadcaster within the stipulated time, the complaint was escalated to the Authority, i.e., NBDSA.

Complaint:

The complaint was regarding a show titled “कट्टरपंथियों से सीधे सवाल करने वाला बहुत बड़ा खुलासा | देश में कौन कर रहा है Vaccine वाला जिहाद ?” (Fanatics to be questioned on this big revelation. Who is involved in “Vaccine jihad” in the country?) aired on 30.5.2021. The complainant stated that in the impugned In the show, a breaking news story about an Auxiliary Nurse Midwife (ANM) called Niha Khan from Jamalpur Primary Health Centre in Aligarh, UP, who was booked for allegedly disposing 29 syringes filled with COVID-19 vaccine without administrating them to the beneficiaries was broadcast.

Further, during the impugned broadcast, a video of a woman in a PPE kit who inserts the syringe into a man’s arms but does not administer and disposes of the vaccine was repeatedly aired. The complainant stated that this video had been fact-checked by a news portal and fact-checker called Alt News, who had tracked the video all the way to Ecuador, where an Ecuadorian national tweeted the video on April 25, and the Ministry of Health of Ecuador even gave a press release in the matter accepting that the said incident in the video took place at a vaccination center in Mucho Lote in Guayaquil, Ecuador.

Therefore, the complainant stated that it could be concluded, without a doubt, that the video aired by the channel in the news report was *misplaced, misinformed and fake*. Clearly, the channel had not verified the origins of the said video and blatantly used it as video proof of Niha Khan indulging in malpractices. The complainant stated that while this itself was a serious case of misinformation, however, the show and the hosts did not stop at that. Throughout the show, the text “*Saazish ki sanak ya mazhabi junoon*”; “*Nurse ki toolkit me kitni jibadan?*”; “*Yogi ki UP me Vaccine Jihad*”; “*Kattarpanthiyo kab muh kobloge*”; “*Vaccine jihad case me karyawahi*”; “*Vaccine wala jihad kattarpanthiyo ab muh kbologe?*” and “*Nurse niha khaan chahti thi ki corona faile aur halaat bigde*” was repeatedly aired to give the alleged incident a communal angle. Further another term “Dhoka” (cheating) had been used repeatedly to insinuate that Niha Khan was deceiving people.

Furthermore, during the show, the correspondent questioned whether Niha Khan did this at the bidding of some terrorist organization. He further stated that the Anti-terrorist Squad should also enquire into this case and mentioned the name of one Dr. Afreen, who is believed to be involved in this incident. He also compared this incident to one of terrorist activity of a human bomb. Throughout the show, it was reiterated

that this was part of a bigger conspiracy against the country and its people, and the implications being that there could be involvement of some terrorist organization, all based on a video that was shot in Ecuador. The entire video and show were designed to stigmatize one community and make them a potential target of hate and even violence. The complainant stated that even if one goes by the claims made by the correspondent's reportage that an inquiry has been set up to investigate into the acts of Niha Khan, how this could be a larger conspiracy and be affiliated with some terrorist activity was vitriolic and beyond comprehension.

The anchors of the show also raised questions as to how many people who came for inoculation were not vaccinated at all by Niha Khan, the insinuation being that there could be 100s of such people, thus creating unnecessary panic among the people residing in that area as well as the public at large. The anchor even went on to say that it is possible that there are other such Centres where such practices are taking place, and people are unaware of this.

The complainant stated that it would not be a conjecture to say that the viewers of the show and social media users who had seen this video would want to know the name of the person vaccinating them and would raise a hue and cry if they turn out to be from the Muslim community. The communal angle plays out quite brazenly throughout the entire show. As bad or worse, the panic that was being created by the hosts could feed into the low awareness about the vaccine and the vaccine hesitancy in remote rural areas or even small towns. This act of creating unwarranted panic among people based on misinformation was not only violative of people's right to health but, at large, was an act against the public interest.

That while the news was that a nurse was suspended for allegedly wasting vaccines, the channel, in its show, had gone several steps further to allege a communal conspiracy and terrorist nexus while showing a misinformed and false video. If the real intention of the channel was to report on the information at their disposal, the whole communal angle would have been avoided. Repeatedly using terms like "*vaccine jihad*" and flashing them on the screen throughout the show in big fonts showed the malafide intentions of the channel and the hosts and exposed the propaganda of spreading hatred and vilifying the Muslim community at large.

The complainant stated that by targeting a young woman professional by name, the broadcaster had put at risk both her professional work and, in a sense, also opened up the possibility of a threat to her person.

In view of the above, the complainant stated that impugned show/reportage violated the Specific Guidelines Covering Reportage and the Code of Ethics and Broadcasting Standards and the Principles of Self-Regulation as laid out by the NBDSA.

The complainant stated that the content of the show, and the usage of words like "*jihadan, dhoka, saazish, vaccine jihad*", was downright offensive and was aimed at ridiculing

one particular community and amounted to hate speech. In *Amish Devgn vs Union of India W.P CrI. No. 160 of 2020*, the Supreme Court had held that, “*The content-based element involves open use of words and phrases generally considered to be offensive to a particular community and objectively offensive to the society. It can include use of certain symbols and iconography. By applying objective standards, one knows or has reasonable grounds to know that the content would allow anger, alarm or resentment in others on the basis of race, colour, creed, religion or gender.*”

The complainant stated that another element of hate speech was harm-based or impact-based which referred to the consequences of that hate speech, i.e., “*harm to the victim which can be violent or such as loss of self-esteem, economic or social subordination, physical and mental stress, silencing of the victim and effective exclusion from the political arena.*”

In a democracy like ours, a person is entitled to status as a social equal and a bearer of human rights and constitutional entitlements. Hence, it is important to stand against such reportage, which continues with brazen impunity and false sources.

The complainant desired for the broadcaster to remove the above-mentioned content from its Facebook page and from any other social media account of its channel and from its own website and issue a public apology for the misinformed reportage of communal nature.

Reply dated 28.6.2021 from the broadcaster

The broadcaster stated that in the complaint, the complainant had raised various false, misleading, frivolous and motivated allegations against the contents of the impugned programme aired on Zee Hindustan on 30.05.2021, wherein it had fairly, objectively and based on the most reliable sources reported a story relating to registration of an FIR against ANM Niha Khan, who was working at Primary Health Centre, Aligarh (U.P.), for allegedly disposing of syringes filled with Covid-19 vaccine without administering them to the beneficiaries.

The broadcaster stated that the present complaint was not maintainable, inasmuch as the impugned programme did not violate any of the Guidelines and Code of Ethics & Broadcasting Standards.

The broadcaster vehemently denied the allegation that the aforesaid programme contained communal content. It stated that it had based on the version of police authorities as well as the versions of the staff of Primary Health Centre, Aligarh, aired a story regarding registration of a case against ANM Niha Khan for allegedly disposing of 29 syringes filled with Covid-19 vaccine without administering them to the beneficiaries. In the programme, it had reported that even the Health Department had initiated an inquiry into the aforesaid allegations and suspended Ms. Niha Khan. The aforesaid story was based on the police version, and in the show, Dr. Bhanu Pratap Singh, CMO, also confirmed the allegations of wastage of Covid vaccine against Ms.Niha Khan. Further, the broadcaster stated that it had also aired the version of ANM Sonam and ANM Anu, who also confirmed the aforesaid allegations against Niha

Khan. Therefore, the impugned report was completely based on the primary and the most reliable sources, and the allegations of 'misinformation' levelled against it were completely false and contrary to the contents of the impugned programme.

The broadcaster stated that while reporting the aforesaid story, it had also aired the version of Ms. Niha Khan in the impugned programme, wherein she denied all the allegations levelled against her. Thus, the impugned news report was completely fair, objective and neutral, and the allegations contained in the subject complaint were completely false.

In so far as the video shown in the programme is concerned, the broadcaster stated that the said video was obtained from police authorities investigating the present case. It stated that for a media house, the police authorities are considered to be the primary and the most reliable source of any information, and as such, there was no reason to doubt the genuineness of the said video. It is relevant to submit that the aforesaid case was registered by the Police on the basis of the video shown in the impugned programme therefore, the telecast of such video in the programme in no manner violated or offended any of the journalistic norms/guidelines.

Further, the video shown in the programme was part of the investigation of police authorities and Mr. Prashant Kishore, ADG, UP, has also admitted to having the said video in the police possession, which is under investigation. Thus, it is submitted that since the aforesaid video was part of police records and it is the duty of the Police to investigate the case along with the genuineness of the said video. Therefore, the allegations to the effect that the video shown in the programme was misplaced, misinformed and fake were completely false and hence denied.

The allegations levelled in the complaint were completely baseless and motivated and without understanding the content of the impugned program have falsely and deliberately given it a communal color and have accused a responsible media channel of "*misinformed reportage*" based on an article by "*Alt News*", when the matter is still under investigation by the Police and concerned authorities and deals with an extremely critical issue of wastage of Covid vaccinations.

The broadcaster submitted that when the entire country was suffering from the second wave of Covid-19 and there was an acute shortage of vaccine in the country, the aforesaid incident of wastage of vaccines and non-administration of vaccine to beneficiaries have shocked the administration and caused fear and panic in the minds of the general public. The aforesaid incident is of grave concern, inasmuch as, 29 lives were put in danger by not administering them Covid-19 vaccine. Thus the impugned reportage was intended to create an awareness and alert the general public and not to create any panic, as falsely alleged.

Since the offence allegedly committed by Niha Khan was extremely serious in nature, it had raised reasonable questions in the programme as to why and on whose behest

ANM Niha Khan committed the aforesaid offence. Therefore, in the given facts of the case and considering the crisis faced by this country amid the second wave of Covid-19, raising an apprehension of involvement of any terrorist group or organization behind the aforesaid act of Ms. Niha Khan cannot be said to be unjustified or an act of targeting a particular community.

In so far as the taglines mentioned in the complaint were concerned, the broadcaster stated that the taglines, were never intended to give the aforesaid story a communal angle, and the allegations levelled to that effect were completely false and vehemently denied.

The broadcaster submitted that it was absolutely false to state that the aforesaid show, targeted any minority group or created religious tensions or hatred. The aforesaid programme was in due compliance with the journalistic norms, applicable code of conduct and the relevant guidelines and completely impartial, neutral, objective and fair and did not tend to hurt the religious sentiments of any particular religion or group.

Rejoinder dated 29.6.2021 from the complainant

The complainant stated that in its reply, the channel had stated that the complaint was not maintainable since the impugned programme did not violate any of the guidelines and Code of Ethics. The broadcaster has completely refuted and denied the assertion articulated in the complaint to NBDSA, about how the various targeted terms aimed to vilify the Muslim community at large were used by the news channel, which violated the Codes of Ethics and principles of Self-Regulation.

The complainant reiterated that the impugned programme violated the Code of Ethics & Broadcasting Standards and the Guidelines particularly the principles of Self-Regulation relating to Impartiality & Objectivity in reporting and Ensuring Neutrality. The programme also violated the Specific Guidelines Covering Reportage in particular the guidelines pertaining to Law and Order, Crime & Violence and Race & Religious Harmony.

The complainant stated that in its response, the broadcaster stated that in the impugned programme, it had given accounts of primary sources such as the Police as well as colleagues of the accused person. The broadcaster had also stated that it had received the video from police authorities investigating the matter. However, the complainant stated that the said video recovered by the channel from the Police was a piece of evidence that would be presented before a trial court and, that while the channel itself contends that it is up to the Court to decide upon the veracity of the allegations and charges made against the accused, however, this point of view, was not reflected in the show at all. Throughout the show, it was projected that in all certainty, the person in the video is the accused, while this claim is highly contested now, considering the fact check done by a fact-checking portal called AltNews.

Further, the fact that the video had been sourced from the Police, did not make it definite or conclusive as the case is still under investigation, and there are several things that may be discovered before or during the trial that could change the course of the case. The defence used by the broadcaster that it had sourced the video from the Police and hence, the allegation of “*misinformation*” was inapplicable does not stand. Throughout the show, the hosts, with utmost certainty, stated that Niha Khan disposed of 29 syringes filled with the Covid-19 vaccine without administering them to the beneficiaries. There was no use of words like “*allegedly*” as is accepted responsible media practice and thus amounted to a media trial. In the impugned programme, the broadcaster drives home the message that the video was of the accused and that she did the act with complete certainty, which was not responsible reporting.

In this regard, the complainant relied on the judgment of the Hon’ble Bombay High Court in *Nilesh Navalakha v. UOI and Ors* (PIL (ST) No. 95156/2020), wherein the Court, while upholding freedom of press under the Constitution reminded the media what role it is supposed to play. The Court had observed that any report of the press/media, having the propensity of tilting the balance against fair and impartial “*administration of justice*”, could make a mockery of the justice delivery system rendering ‘truth’ a casualty and that it was the duty of the press to report correct versions of incidents without any distortion/embellishment.

While dealing with the issue of ‘media trial’, the Court observed that “*a person cannot be dehumanized, disrepute, vilified and maligned qua his societal existence at the hands of the media in an attempt to sensationalize any crime which is under investigation.*”

The Court directed that “*No report/discussion/debate/interview should be presented by the press/media which could harm the interests of the accused being investigated or a witness in the case or any such person who may be relevant for any investigation, with a view to satiate the thirst of stealing a march over competitors in the field of reporting.*”

The complainant reiterated that throughout the show, various terms were used which were aimed at giving the entire incident a communal colour. Further, even if one keeps the veracity of the video in question aside, the intention of the show to target the community and to allege that the accused could be connected to a terrorist organization was a far cry from fair and neutral journalism, something that the channel claimed to be doing.

The broadcaster, in its response had stated that the taglines used were never intended to give the aforesaid story a communal angle. However, the complainant stated that the use of terms like “*vaccine jihad*”, *saazish* (conspiracy), *Jihadan*” based on one alleged incident was a pure case of steering a propaganda through reportage. Flashing taglines like “*Saazish ki sanak ya mazhabi junoon (Conspiracy or religious fanaticism?)*” was a clear indication of how the channel intended to co-relate the alleged vaccine wastage incident with religion, thus giving it a communal angle.

Using such terms amounted to labelling and with a clear intention of promoting enmity towards the Muslim community. These terms were aimed at wounding religious feelings of the community and had the potential to cause public mischief, enmity, hatred or ill will, all of which are offences under the Indian Penal Code.

The broadcaster does not believe that raising questions about the terrorist affiliation of the accused belonging to the Muslim community was unjustified at all and, at the same time, denies giving communal colour or indulging in targeting a religion.

Decision of NBDSA at its meeting held on 8.1.2022

NBDSA considered the complaint, response from the broadcaster and viewed the footage of the broadcast. NBDSA decided to call the broadcaster and the complainant for a hearing.

Decision of NBDSA at its meeting held on 4.2.2022

The hearing in the captioned complaint was deferred due to paucity of time.

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

Complainant:

Ms. Aparna Bhatt, Advocate

Broadcaster:

Mr. Ritwika Nanda, Advocate

Mr. Piyush Choudhary, Senior Manager - Legal

Ms. Annie, Assistant Manager - Legal

Submissions of the Complainant:

The complaint submitted that the complaint was in reference to the show aired by Zee Hindustan on 30.5.2021 called कट्टरपंथियों से सीधे सवाल करने वाला बहुत बड़ा खुलासा | देश में कौन कर रहा है Vaccine वाला जिहाद ?. The complaint submitted that there was an incident in Uttar Pradesh wherein an ANM Niha Khan, who was working at Primary Health Centre, Aligarh (U.P.), had allegedly disposed of syringes filled with Covid-19 vaccine without administering them to the beneficiaries and its complaint was regarding how this incident was projected as “Vaccine Jihad” in the impugned programme. The complainant questioned why the broadcaster had in the programme projected an entire community as being against vaccine.

Further, it submitted that while the broadcaster had in its written submissions stated that it had without prejudice removed the video of the impugned programme on receipt of the complaint, however, the video of the impugned programme was still available on various social media handles and a truncated part of the impugned programme was also included in other videos available on YouTube.

Submissions of the Broadcaster:

The broadcaster submitted that in the programme aired on Zee Hindustan on 30.05.2021, it had fairly, objectively reported the incident relating to an ANM, identified as Niha Khan, who had allegedly disposed of at least 29 syringes filled with Covid vaccine without administering them to the beneficiaries at Primary Health Centre, Aligarh, Uttar Pradesh.

The broadcaster stated that a fleeting reference was made to vaccine jihad in the impugned programme based on the perception of the people about the incident, and that even the ticker run by it during the programme was based on the perception of people. However, the broadcaster clarified that it had not interviewed other people in the programme rather the programme included the interview of Ms. Niha Khan, her colleagues and the CMO.

The broadcaster submitted that the entire broadcast was for duration of 11 minutes and should be considered in totality, from which it would become clear that it had not targeted any community in the programme. It is pertinent to note that this incident took place at a time when the entire country was facing the second wave of Covid-19 and when there was a shortage of vaccines across the country, and emphasis was placed on the judicious use of vaccines and minimizing their wastage.

The broadcaster submitted that it had used the term “*Kattarpanthiyo kab muh kohlogé*” only to find if there was a concerted effort or reason behind the incident and it did not target any community as alleged. It admitted that it had used the phrase “*Saaqish ki sanak ya mazhabi junoon*”, but the same was aired only for one second during the programme. Admittedly, it submitted that the words used in the ticker could have been avoided or substituted; however, the broadcaster reiterated that its intention was not to communalize the incident or target any community.

Concerning the veracity of the video used in the programme, the broadcaster submitted that it had received the impugned video from the Police. However, on becoming aware that the video was incorrect, it had issued a clarification on its Facebook page and deleted any link on which the video was available. That since the airing of the impugned programme, it had sensitized its editorial team about using videos and regarding tickers.

In response, the complainant submitted that the broadcaster had removed the video of the impugned programme only after submitting its written submissions and that the video was available and in circulation at the last date of hearing.

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 footage of the broadcast.

At the outset, the Authority noted that the broadcaster was within its right to broadcast information regarding wastage of vaccine, particularly when the availability of the vaccine was scarce.

However, while reporting such sensitive information, it is necessary for the broadcaster to report the same accurately, in a balanced manner and without giving a tilt to the said news report.

In the present case, the broadcaster in its submissions stated that after becoming aware that the impugned video was not of Niha Khan, it had issued a clarification on the Facebook page of its channel. NBDSA noted that issuance of clarification on the Facebook page of the channel was not sufficient compliance of the Code of Ethics and Broadcasting Standards which enjoins the broadcaster to ensure that significant mistakes made in the course of any broadcast are acknowledged and corrected on air immediately in such a way that they attract enough viewer attention and are not concealed. NBDSA also noted that the Specific Guideline Covering Reportage relating to Accuracy state “ *Errors of fact should be corrected at the earliest, giving sufficient prominence to the broadcast of the correct version of fact(s).*”

Having viewed the footage in its entirety, the Authority was also of the view that the channel had given a tilt to the programme by co-relating a singular incident of alleged vaccine wastage with a particular community.

However, it was also noted that the broadcaster admitted that certain ticker/language could have been avoided and that it had deleted the impugned video.

In view of the above, NBDSA decided that the broadcaster had violated the Code of Ethics and Broadcasting Standards (Code of Ethics) and the Specific Guidelines Covering Reportage relating to Race and Religious Harmony. Therefore, NBDSA expressed strong disapproval to the tilt given to the programme by the broadcaster and decided to issue a warning to the broadcaster to be careful and sensitive while airing such programmes in future.

NBDSA also drew the attention of the broadcaster to Section 10 of the Code of Ethics which states that “ *All news channels will keeping with the principle of due accuracy and impartiality, ensure that significant mistakes made in the course of any broadcast is acknowledged and corrected on air immediately. Corrections should also be scheduled in such a way that they attract enough viewer attention and are not concealed. This, like the other principles, must be observed in spirit, and not just in letter, to avoid any compromise to the reputation of the news broadcasting industry in India.*” and abide by the same in future broadcasts.

NBDSA directed the broadcaster to air the details regarding the Order on its channel, as per Regulation 8.18 of the News Broadcasting Standards Regulations on 22.6.2022 at 7.00 pm in view of the fact that the clarification which was issued by the broadcaster regarding the impugned video was on its Facebook page and not on its channel, which is a requirement under the Code of Ethics.

In view of the above, NBDSA directed the broadcaster to carry the following clarification on its channel “ *Zee Hindustan clarifies that the broadcast of the video shown on the*

channel on 30.5.2021 was an inadvertent error as it had no connection with the programme titled “कट्टरपंथियों से सीधे सवाल करने वाला बहुत बड़ा खुलासा | देश में कौन कर रहा है Vaccine वाला जिहाद?” .

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 the same 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