

**News Broadcasting & Digital Standards Authority
Order No. 144 (2022)**

Complainant: Mr. Utkarsh Mishra

Programme: “DNA: चुनावी नतीजे और 'द कश्मीर फाइल्स'”

Broadcaster: Zee News

Date of Broadcast: 21.3.2022

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

Complaint dated 28.3.2022:

The complainant submitted that while it is the anchors' responsibility to hold to account the successive Government (particularly the Government in power) at the concerned point in time, in the impugned programme, the anchor however professes to pass judgment on the intent of entire communities by purposefully projecting the criticism over the lack of context in the movie 'Kashmir Files' as attempts to defame the movie or as insensitivity to the plight of the Kashmiri pandits. The anchor expressly attempts to disregard and discredit criticism of the movie by terming such opinions as divorced from reality.

After reading out statements of several opposition political leaders, the anchor cites the examples of the statements made by Aamir Khan, which are as follows “*Is badlav ka hi ye asar hai jo aap ko dikayi de raha hai ki aaj abhineta Aamir Khan ne bhi is film ki tareef ki hai, is film ka samarthan kiya aur kaha ki desh ke sabhi logon ko the kashmir files zaroor dekhni chahiye, yani hamare desh me jo liberal ye umeed kar rahe the ki aamir khan unka saath denge aur is film ka virodh karenge, aaj aamir khan ne bhi aise tamman logon ko niraash kar diya hai.*”

The complainant stated that Aamir Khan, in his statement, specifically stated that he has not seen the movie but that he is planning to, as it reflects a painful period of Indian history. However, the anchor used the actor's statement to claim that “*the critics of the movie are attempting to deny or stop the 'truth' of the Kashmiri pandits from coming out and that these people labeled 'liberals' are disappointed that Aamir has not joined them in rallying against the movie*”.

Thereafter, the narrative was actively expanded in the programme to include all critics of the present political executive policies on various issues. Clear attempts were made in the programme to unduly influence the sentiments of viewers against a specific community whom the anchor repeatedly claimed do not want the truth of the Kashmiri pandits to come out. The anchor stated “*Toh aaj aap dekh sakte hai ki bharat ke samaj ka bharat ke aam logon ka mood ky abai, unki marzi kya hai, unki pasand*

aur napasand kya hai phir bhia gar log ye jaana cha rabe , is sachai ko sweekar nahi karna chahte toh ye bharat ka durbhagya hai.

Bharat me aise logon ki kami nahi hai, jo sarkar ka virodh karne me, modi ka virodh karne ke chakkar me apne desh ka ki virodh karne lagte hai . Aur iske liye woh har us cheez ki burai karte hai jo bharat sarkar se judi hai jo us cand be midi satkar se jufu mahi AAP soch lijiye chahiye woh vaccine ki baat ho, chabe woh covid ka response hom, chabe woh ukraine ka yudh ho. Chahiye woh operation ganga ka ztiye bataye chatyron ko yahan jaane ki baat ki. Chaye woh ukraine par bharat ki videsh neeti ho, ukraine aur russia ke yufdh par. Harr cheez ko lekar hamare desh ka ek varg hai jo hamare saath hi nahi khada hai aur jo hamari hi aalochna karta hai . Lekin aaj aise logon ko pakistan ke PM Imran khan ka ek bayan sunna chahte ha. Pakistan toh hamara dushman desh mana jaata hai , Pakistan ka PM bharat ki videsh neeti bharat ke logon ke hi tme bata raha hai aur bharat ki videsh neeti ki tareef kar rahab”. After which the speech of the former Pakistan Prime Minister Mr. Imran Khan praising India’s “azad” foreign policy is read out and the anchor again repeated that there is a group of people in the country who particularly like Pakistan. Criticism of the movie is thus repeatedly likened to the criticism of other polarizing issues all of which the anchor seeks to collectively dismiss and discredit in the programme.

The complainant stated that in light of the manner of reporting, the critics of the movie were thus labelled as Pakistani sympathizers and the anchor's coverage further descended into encouraging the stifling of dissent as he seemed to attempt to intimidate critics of the PM by telling them that they should just silently do what he says. This demonstrated his intent to influence and construct ideological and political narratives that serve the BJP. The anchor stated “*Hamara desh ka ek varg hai jise pakistan bada pasand hai . toh jab pakistan ke PM hamare desh ki foreign policy ki tareef kar rabe hai, toh uab unhe bhi maan lena chahiye ki bharat ek naye yug ka prevesh kar rahab hai aur ab unhe bhi is bat ko swikar jar lena chahiye ki bharat me bade bade badlav hue hai. Isliye aakhier me hum aapse yehi kehna chabenge ki pichle ek mahine me hamare desh ke logon ne 2 bade indications diye hai. Pehla vidhan sabha chunav be BJP ki jeet, duska the kashmir files ka is tarah super hit hone. Ye appko batata hai ki desh jag raha hai. jo chinta janak baat hai woh ye hai ki karnataka high court ke 3 judges jinhon ne hijab viivad ka faisla diya tha. Unhe apne hi desh me suraksha leni pad rahi hai kunki jaan ko khatra pad gaya hai. Aur vivek agnihotri ko bhi suraksha leni pad rahi hai kyunki saach bolne ke liye unki kabhi bhi hatya ho sakti hai. Ye ek boht hi chintajanak baat hai ki hamare desh me jo film nirdeshak hai, jo patrakar hai, jo sach bolna chahte hai ya jo haamre desh ki judiciary, jo judge hai unhe bho jaan se marne ki dhamki di ja rahi hai. Kyunki is baar jo sach woh logon ko bata rabe hai. Woh kuch logon ko suit nahi karta. Aur biht saare log ye bhi kehnte hai i bahu sankhyak aur alpsankhyak ke beech me jo khayi create ki gayi hai. Alp sankhyak ko bahut saare special rights diye gaye hai. Bahu sankhyak ko nahi diye gaye hao. Ye bahu sankhyak ke vichar hai jo aapke saamne ubhar ke aa rahi hai. Ye unka wahi gussa hai jo angry young man ke time pe aapko dekhne mila tha. Ye saare judge bahu sankhyak samaj se aate hai, vivek agnihaotri bhi bahsakenhyak samaj se aate hai. Aur bahusakenyak samaj ke log ko hi aaj police ke ghere me aake apni jaan bachane ki naubat aa gayi hai”.*

The complainant stated that massive generalizations being resorted to by the anchor in the impugned programme were dangerous in light of the extremely polarizing issues that he was reporting on. His extremely simplistic and polarizing explanations of the intent and motivations of the communities and individuals indulging in debate violate the rights of viewers to have fact-based views on the matter. Further, his labelling of the critics as Pakistani sympathizers violates the right to free speech, which can have dangerous consequences.

It is a popular notion held by many, including several Kashmiri pandits, that political parties have often tried to milk their tragedy for the grave injustices suffered by the community for electoral gains. The complainant stated that in the programme, the anchor has thus attempted to use the debate around the Kashmir files to promote an ideological narrative that works in favour of a political party and has thereby violated:- Guidelines to prevent communal color in reporting crime, riots, rumours and such related incidents, particularly Guidelines No. 3 which states "*3. In reporting all such news/programmes the focus must only be on the objective facts of the incident. Great care is required in this behalf, particularly when the accused belong to a minority community.*" Apart from the Guidelines, the impugned programme also violated the principles of impartiality, objectivity and neutrality as enshrined under the Code of Ethics & Broadcasting Standards. Therefore, the complainant stated that the anchor must apologize for such violations, and the broadcaster must immediately remove the video of the impugned programme from all its platforms.

Reply dated 7.4.2022 from the Broadcaster:

The broadcaster stated that in the impugned programme, it had also conducted a detailed analysis of the two recent events, i.e., the success of the Movie – Kashmir Files and the election conducted in Five States, where the BJP won in four such States.

The broadcaster stated that the present complaint was not maintainable before the NBDSA since the impugned programme did not violate any of the Guidelines, Code of Ethics and principles of self-regulation. That the impugned programme was completely neutral, objective and impartial and as such, the present complaint was nothing but another attempt on the part of the complainant to muzzle the voice of a responsible media from reporting the truthful account of important facts and events. The broadcaster stated that the complaint had been filed based on surmises and conjectures, and nowhere in the complaint, the complainant had been able to prove any of the contents of the impugned programme as being violative of any of the applicable guidelines.

Without prejudice to the aforesaid preliminary submissions, the broadcaster stated that the programme 'DNA' (Daily News and Analysis) is a prime-time news show and is a special segment where while reporting the important news of the day, it also conducts a detailed analysis of the said news for its viewers. Thus, in the impugned

programme, it had reported and conducted a detailed, fair and objective analysis of the important news of that day which related to life threats being extended to the Hon'ble Karnataka Judges and Mr. Vivek Agnihotri, Director of the Movie 'Kashmir Files', due to which, the Hon'ble Judges and Mr. Vivek Agnihotri were granted Y category security.

That in the programme, it had fairly telecast the version/byte of various political leaders who criticized the movie 'Kashmir Files' and conducted a detailed and fair analysis of such criticism. Further, the programme also included statement made by the actor Mr. Amir Khan on the aforesaid movie, wherein he expressed his concerns over the genocide of Kashmiri Pandits and stated that every Indian should watch this movie. Thus, in the programme, it had fairly analyzed the statement of Mr. Amir Khan in support of the movie 'Kashmiri Files' in light of its criticism by various opposition leaders.

The programme was never intended to violate the principles framed by NBDSA or self-regulation, for that matter. The broadcaster stated that it had nowhere selected the news for the purpose of either promoting or hindering either side of the aforesaid issue. Thus, the allegations that the impugned programme lacked impartiality, neutrality and objectively were vehemently denied.

The broadcaster denied the allegation that it had attempted to discredit the criticism of the movie and had propagated a narrative that supported the Government. Further, it vehemently denied that it had tried to influence the sentiments of its viewers against a particular community and tried to label them as '*Pakistan Sympathiser*'. It is stated that the anchor has nowhere labelled the critics of the movie as '*Pakistani Sympathizer*'. The purpose and intention of showing the byte of the Prime Minister of Pakistan was merely to show that despite being the Prime Minister of Pakistan, was praising the Foreign Policy of the Government of India. However, a certain section in the country kept criticizing each and every effort of the Indian Government only for the sake of criticizing the Hon'ble Prime Minister of India. The aforesaid analysis was completely objective, and by conducting the said analysis, it cannot be said and imputed that it had attempted to support a narrative that supports the present Government.

Nowhere had the news been selected for the purpose of either promoting or hindering either side of any controversial public issue, as falsely alleged by the complainant, and neither was it intended to influence the sentiments of viewers against a specific community.

That in the programme, the anchor had fairly presented the views and opinions of different leaders/ members belonging to different political parties without creating any sensationalism or targeting any community. The complainant had failed to explain how the impugned programme was violative of any of the principles laid down by the NBDSA. The complainant had also failed to showcase as to where in

the programme a "*certain community*" was targeted or even referred. It is, in fact, the complainant who is trying to communalize a non-communal news bulletin. Evidently, the complainant has failed to show how the said Regulations had been violated.

Decision of NBDSA

NBDSA at its meeting held on 31.5.2022, considered the above complaint and the response dated 7.4.2022 received from the broadcaster. NBDSA, therefore, decided to call the complainant and the broadcaster for a hearing at the next meeting as it was necessary to determine whether the broadcaster had violated the Code of Ethics & Broadcasting Standards and the Guidelines issued by NBSA.

On being served with the notices, the following were present for the hearing on 14.6.2022:

Complainant

Mr. Utkarsh Mishra, Advocate

Ms. Suroor Mander, Advocate

Broadcaster:

Ms. Ritwika Nanda, Advocate

Mr. Piyush Choudhary, Chief Manager, Legal

Ms. Annie, Assistant Manager - Legal

Mr. Anurag Singh – Editorial Representative, ZMCL

Submissions of the Complainant:

The complainant submitted that his complaint is limited to the manner in which the anchor has attempted to discredit any criticism of:-

- the Kashmir Files and
- the manner in which the present political executive is promoting the movie.

In the programme, the anchor projected the critique as evidence that certain communities do not want the "truth" of the Kashmir Files to come out. The complainant submitted that it is perfectly valid for individuals to critique a movie despite it being successful, particularly when it is on such a polarizing issue. The communities and individuals that have critiqued the movie for its lack of context include Kashmiri Pandits, journalists who have covered the exodus as it was happening.

The complainant submitted that in its reply dated 7.4.2022, the broadcaster had stated that the term Pakistani sympathizer was used in the context of the following statement made by the anchor while referring to critics of the movie :- - "*Hamara desh ka ek varg hai jise pakistan bada pasand hai .*" The complainant submitted that the

casual tone and tenor and the matter-of-fact manner in which the anchor attributed extremist thought to individuals and communities was alarming to say the least. His commentary crossed the boundaries of objectivity and a balanced analysis.

This charge of critiquing the country in an effort to critique the PM has been reported as a fact, further buttressed in the reply, where they seem to be using this claim as a justification for their opinionated point of view. It is not a matter of fact, but a highly polarized opinion that *"a certain section in our country are kept criticizing each and every efforts of the Indian Government only for the sake of criticizing Mr. Narendra Modi, the Hon'ble Prime Minister of India"*.

The claim that a few select lines have been cherry-picked to draw a narrative is unfounded in light of the grave consequences that said select lines, statements and vocabulary could have in forming the opinions of the viewers against certain communities. Furthermore, these lines have not been judged on their individual capacity but within the context that they were being used. The anchor in the broadcast talked about the tragic event of the exodus and then proceeded to add a few casually targeted, generalized and highly polarizing claims in a matter of fact way about specific communities such as : *"yani hamare desh me jo liberal ye umeed kar rahe the ki aamir khan unka saath denge aur is film ka virodh karenge, aaj aamir khan ne bhi aise tamman logon ko niraash kar diya hai"*

These claims can at best be described as personal opinions and have no place in a broadcast that is supposed to present the factual matrix of a situation. The relevance of such *"one liners"* needs to be adjudged in the light of the effect they can have of developing unfounded strife or enmity between different communities. The consequences of such statements being made in the context of such as polarizing issue as the exodus , will be that the viewers will develop the impression that individuals critiquing the movie are (in the words of the anchor) living divorced from reality, are not sympathetic to the plight of the Kashmiri Pandits or like Pakistan too much. The coverage fundamentally sought to distort the criticism and present it to viewers and was politically motivated.

Finally, the anchor's blatant political posturing and attempts to set forth socio-political narratives in favour of the BJP were also evident in the final sentences of his broadcast, in which he stated *"Isliye aakhir me hum aapse yehi kehna chahenge ki pichle ek mahine me hamare desh ke logon ne 2 bade indications diye hai. Pehla vidhan sabha chunav me BJP ki jeet, dusra the kashmir files ka is tarah super hit hona. Ye appko batata hai ki desh jag raha hai."*; *"Toh aaj aap dekh sakte hai ki bharat ke samaj ka bharat ke aam logon ka mood ky abai, unki marzi kya hai, unki pasand aur napasand kya hai phir bhia gar log ye jaana cha rahe , is sachai ko sweekar nahi karna chahte toh ye bharat ka durbhagya hai"*; *"Bharat me aise logon ki kami nahi hai, jo sarkar ka virodh karne me, modi ka virodh karne ke chakkar me apne desh ka ki virodh karne lagte hai"*.

The complainant reiterated that in the programme, clear statements were made by the anchor to discredit any criticism of the film and an attempt was made to influence and construct an ideological and political narrative. Furthermore, in the programme, the speech of former Pakistani Prime Minister Imran Khan praising India's "*azad*" foreign policy was read out, only to highlight that in our country, a certain group of people are only interested in criticizing the Government. That the said statement is not a fact but only an opinion which has been presented as a fact by the anchor in the impugned programme. In the programme, criticism of the movie is repeatedly likened to the criticism of other polarizing issues, all of which the anchor sought to collectively dismiss and discredit. The complainant submitted that the impugned programme amounted to reporting news to influence a particular point of view.

Submissions of Broadcaster

At the outset, the broadcaster submitted that the impugned programme was Daily News Analysis conducted in the backdrop of two incidents, *one*, the Hon'ble Judges of the Karnataka High Court being threatened to post the verdict on Hijab and *two*, Mr. Vivek Agnihotri, the director of the Movie 'Kashmir Files' being threatened and granted Y level security by the Government. The question that emanated and the discussion flowed from these incidents. The broadcaster submitted that even the filmmaker Vivek Agnihotri has a fundamental right of expression and, needless to say, impartiality of the judiciary is paramount in the country. Therefore, it submitted that its analysis in the programme flowed from these issues. Further, since Mr Vivek Agnihotri is the filmmaker of the Kashmir Files so the debate does address the movie. The second discussion raised during the course of the telecast was the fact that Kashmir files had become a super hit despite being a low-budget film, which indicated the support that it has been getting from the members or the citizens of the country.

NBDSA asked the broadcaster to make its submissions in respect of the complainant's submissions that the programme favoured a certain political party.

The broadcaster denied the complainant's submission and stated that it was not tilted towards any kind of political party but was regarding the director of the film getting life threats, and the fact that the movie had become a super hit, which implied that people were encouraging the film or the film had gained a lot of acceptability. The broadcaster submitted the clipping of Mr Imran Khan, Prime Minister of Pakistan, was shown in the backdrop that even today, when Pakistan is praising India's foreign policy, however, they are still people or segments in India who are criticizing the nation and the Government. The statements relied upon the complainant were made by the anchor in this context, and the anchor in the programme did not target any specific community as alleged.

Decision

NBDSA went through 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.

On viewing the footage, NBDSA found no specific violation of the Code of Ethics and Broadcasting Standards or Guidelines in the broadcast. NBDSA, therefore, decided that no action was called for on the complaint.

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 : 23.07.2022