

## **News Broadcasting & Digital Standards Authority**

**Order No. 162 (2023)**

**Complainant: Mr. Indrajeet Ghorpade**

**Broadcaster: Zee News**

**Date of Broadcast: 5.1.2022**

Since the complainant was not satisfied with the response received from the broadcaster, under the News Broadcasting & Digital Standards Regulations the complaint was escalated to the second level of grievance redressal, i.e., to NBDSA.

### **Complaint dated 9.1.2022**

In the impugned programme, the anchor falsely claimed that it was common knowledge that Naxalites were hiding in the farmers' protest. The complaint stated that the aforesaid claim was false as the anchor had failed to provide evidence to support the fake news. Even the Home Ministry had clarified that the provisions of sedition or any other anti-terror law, such as UAPA, had not been invoked in any of the cases registered against the protesting farmers.

The above fact was also highlighted during a hearing held on 24.09.2021 concerning other broadcasts aired by the broadcaster in respect of the farmers' protest, in which NBDSA had passed an order asking the broadcaster to take down the violating videos. Despite the above, the channel has continued to spread false information against the farmers' successful protest.

The complainant questioned the motivation behind deliberately spreading fake news. Further, at 51:45 minutes in the impugned broadcast, the anchor stated that during the investigation of the Bhima Koregaon violence, India's Security Agencies had found a letter which mentioned a plan to murder the Prime Minister in a similar method by blocking the road.

However, the anchor conveniently failed to report that the credibility of these letters was not established in Court, that none of the accused was convicted and most importantly, that Arsenal Consulting, a private digital forensics firm, had claimed that several letters were illegally planted using malware in the laptops of the activists, lawyers and social workers who were accused of planning to murder the Prime Minister. In this regard, the complainant relied on an article published in the Washington Post in support of his contention.

In view of the above, the complainant stated that since the investigation into the matter was still ongoing, and the matter is currently sub judice, the anchor's unethical practice of sharing one-sided claims violated the Code of Ethics and Broadcasting Standards.

### **Reply dated 3.2.2022 from Broadcaster**

The broadcaster stated that it had fairly and objectively reported and conducted an analysis of the major lapse in the security arrangement provided to the Prime Minister, by the Punjab Police, as a result of which his convoy was stopped by protesters on the Bhatinda flyover *en route* to Hussainiwala in Ferozepur district. In response the broadcaster stated as under:

1. That in the complaint, specific objection has been raised with respect to the statement made by the anchor at 52:00 hrs, *to the effect* that “*this is a known fact that how naxals are hiding in the farmers protest.*” Another objection is with regard to the reference made to the letter recovered by the agencies investigating the Bhima Koregaon Case, which described a plot to assassinate the Prime Minister.
2. That the present complaint was not maintainable before the NBDSA, since the impugned programme did not violate any of the Guidelines and the Code of Ethics and Broadcasting Standards. The impugned programme was completely neutral, objective, and impartial and had not spread any false or fake news, as falsely alleged.
3. That the statement made by the anchor concerning the presence of Naxal elements in the farmers' protest is a widely known fact which had also been reported by several media houses, the statement was based on credible sources; therefore, the allegations contained in the complaint were completely false and liable to be rejected.
4. That with respect to reference made by the anchor, at 51:45 minutes, it had merely reported the fact, in light of the present case of PM's security lapse, that during the investigation of the Bhima Koregaon Case, the investigating agencies had recovered a letter which described a plot to assassinate the Prime Minister, Sh. Narendra Modi in a Rajiv Gandhi type incident. The recovery of the aforesaid letter was a matter of fact, which had also been briefed and discussed by the then Mumbai Police Commissioner and the Chief Minister of Maharashtra in a press conference. The aforesaid fact had also been published and widely reported by several media houses.
5. That the issue reported was related to the safety and security of the Prime Minister which was based on verified sources and there was no intention to either influence the opinion of the viewers or to prejudice the trial of the Bhima Koregaon Case. Therefore, by referring to the aforesaid letter, it had not breached any of the guidelines issued by the NBDSA.
6. That as far as the report of Arsenal Consulting was concerned, it stated that NIA investigating the case had time and again clarified that an analysis by a government forensic laboratory did not indicate that the laptop had been compromised by malware, and the investigation was complete. This fact was also

highlighted in the ongoing case wherein the investigation agency had claimed that reports of Arsenal Consulting had no locus standi.

#### **Further reply dated 4.2.2022 from complainant**

The complainant stated that he was not satisfied with the response received from the channel, as in its response, the channel had stated that it was a fact that Naxalites have entered the farmer's protest. As an "evidence" of this, the channel provided some web articles that quoted two Ministers as saying that Naxalites have entered the farmers' protest. The complainant stated that mere quotes by these Ministers do not prove the false allegations. Politicians make many statements, but not all of them are true. Therefore, statements made by Ministers should not be blindly believed and it is the responsibility of news channels, not to be mouthpieces of politicians but to investigate and report on the facts.

Regarding the Bhima Koregaon case and the channel's claim that it was a fact that a letter was found in the laptop of the accused persons that spoke about assassinating the PM, the complainant stated that the matter is sub judice as the credibility of the letter had not been proved in Court, in fact, one of the accused has moved Bombay High Court seeking an SIT probe regarding the plantation of fabricated documents onto his laptop. When such is the status of the case, it was unfair for the channel to state on TV that it is a fact that a letter was found in the laptop, without disclosing additional information that raises questions on the credibility of the letter.

Due to the above two reasons, he stated that he was unconvinced with the channel's response and would like his grievance to be placed before NBDSA.

#### **Decision of NBDSA regarding condonation at its meeting held on 9.3.2022:**

NBDSA considered the reply received from the complainant regarding the delay of three days on his part in escalating the complaint to the Authority and the response received thereof from the broadcaster.

After considering the submissions made by the complainant in the application seeking condonation of delay, the Authority decided that the complainant had acted diligently and there was sufficient cause to condone the delay of three days in escalating the complaint to the Authority.

Accordingly, the Authority, condoned the delay of three days on the part of the complainant in escalating the complaint to the Authority and decided to call both the parties for a hearing.

#### **Hearing on 28.10.2022**

On being served with notice, the following were present for the hearing on 28.10.2022:-

**Complainant:**

Mr. Indrajeet Ghorpade

**Broadcaster:**

Ms. Ritwika Nanda, Advocate

Ms. Annie, Assistant Manager Legal

Mr. Rajnish Ahuja, Editor Member representing the broadcaster in NBDSA (Zee News), being an interested party, recused himself from the proceedings.

**Submissions of the Complainant:**

The complainant submitted that the impugned broadcast was factually incorrect as convoys of Prime Ministers have been stopped even in the past. In respect of the use of the word “Naxalites”, the complainant submitted that despite an earlier order of NBDSA on the subject, the broadcaster continues to claim that footprints of Naxals have been found in the farmer's protest, solely based on a statement made by a Minister. Further, during the broadcast, the anchor also referred to the undertrials in the Bhima Koregaon case as Naxals, which was unwarranted. During the broadcast, a letter allegedly found in possession of one of the undertrials, discussing a plan to assassinate the Prime Minister, was broadcast, despite the Hon'ble Bombay High Court directing the media not to display the letter. He further submitted that Arsenal Consulting, a private digital forensics firm, had claimed that several letters were illegally planted using malware in the laptops of the activists, lawyers and social workers accused of planning to murder the Prime Minister. The complainant submitted that the anchor's conduct in the programme was not neutral as he claimed that people in Punjab were behind the security lapse and did not want development. Furthermore, by stating that the Prime Minister and the Chief Minister belonged to different political parties, the anchor also insinuated that the Chief Minister of Punjab was behind the incident.

**Submissions of the broadcaster:**

The broadcaster submitted that the averments raised by the complainant in the hearing were not part of his complaint and that in the complaint, the complainant had only impugned one-time stamp between 51:42 – 52:00 of the impugned broadcast. The broadcaster denied that it had referred to the undertrials in the Bhima Koregaon case as Naxals. It submitted that the impugned broadcast did refer to the content of the letter retrieved during the Bhima Koregaon raid. However, it stated that the same was in the public domain and in wide circulation.

That the impugned broadcast was a Daily News Analysis, wherein it had fairly and objectively reported and conducted a detailed analysis of the fact of major lapse in the security arrangement provided to the Prime Minister, by the Punjab Police, as a result of which his convoy was stopped by the protesters on Bhatinda flyover, en route to Hussainiwala in Ferozpur district. During, the programme a question was raised as to whether the incident involving the convoy of the Prime Minister being

stopped by the protestors in Punjab was a security lapse (suraksha ki chook) or a conspiracy (saajish). It was stated during the broadcast that the Prime Minister's convoy had to return due to the security lapse, and he could not participate in the event in Kartarpur. Therefore, the aforementioned letter was broadcast to discuss whether the incident was a lapse in security or an attempt to assassinate the Prime Minister.

Regarding the report quoted by the complainant, the broadcaster submitted that NIA, investigating the case, had time and again clarified that an analysis by a government forensic laboratory did not indicate that the laptop had been compromised by malware and that the investigation is complete. This fact was also highlighted in the ongoing case wherein the investigation agency claimed that reports by Arsenal Consulting had no locus standi.

The broadcaster submitted that it could not make its submissions in respect of the Order passed by the Hon'ble Bombay High Court directing the media not to circulate the letter, as a reference to the said Order was made for the first time by the complainant during the hearing. Further, it submitted that it was based on newspaper reports stated during the programmes that Naxalites had infiltrated the farmer's protest.

In rebuttal, the complainant asked the broadcaster to answer on proven facts to show that Naxals had infiltrated the farmer's protest.

#### **Decision of NBDSA at its meeting held on 28.10.2022:**

In view of the submissions made by the complainant, NBDSA decided to defer its decision in the complaint to consider the Order passed by the Hon'ble Bombay High Court. Accordingly, NBDSA directed the complainant to submit a copy of the said Order to the Authority with a copy to the broadcaster.

#### **Response dated 1.12.2022 of the Complainant**

The complainant stated that he could not obtain a copy of the Order passed by the Hon'ble Bombay High Court. However, he relied on certain dissenting quotes made by the present Chief Justice of India, wherein he reflected on the media trial of undertrials in the Bhima Koregaon case. The complainant also relied on news articles in support of his submission.

#### **Decision of NBDSA at its meeting held on 28.1.2023**

NBDSA considered the reply dated 1.12.2022 filed by the complainant in response to its query. In view of the fact, that the complainant was unable to produce the Order of the Hon'ble Bombay High Court directing the news media not to broadcast the contents of the letter allegedly found during the Bhima Koregaon raid, NBDSA decided to give the parties another opportunity to make their additional submissions, if any. NBDSA decided to call the parties for a hearing at the next meeting.

### **Hearing on 11.3.2023**

On being served with notice, the following were present for the hearing: -

#### **Complainant:**

Ms. Sanchita Kadam, authorized representative of the Complainant

#### **Broadcaster:**

Ms. Ritwika Nanda, Advocate

Ms. Annie, Assistant Manager, Legal

Mr. Rajnish Ahuja, Editor Member representing the broadcaster in NBDSA (Zee News), being an interested party, recused himself from the proceedings.

#### **Submissions on behalf of the Complainant:**

The authorized representative of the complainant reiterated that the impugned complaint was regarding the lapse in security of the Prime Minister. At time stamp 54 in the broadcast, the anchor suddenly mentioned that a letter was found during the Bhima Koregaon raid, which described a conspiracy to attack the Prime Minister. She submitted that the letter had no connection with the subject of the impugned broadcast. Further, the broadcast of the letter which had been leaked to the media on national television was not only not in good taste but also amounted to media trial, which has been prohibited by the Hon'ble Bombay High Court in the matter of *Nilesh Navalakha & Ors. v. Union of India & Ors. 2021 SCC Online Bom 56* had prohibited. She also stated that the Specific Guidelines covering Reportage states that *"reports on crime should not amount to prejudging or pre-deciding a matter that is, or is likely to be, sub judice"*.

NBDSA questioned the authorized representative of the complainant whether the media is refrained from even reporting the existence of the evidence gathered by the Police without commenting on the merits of the evidence.

In response she submitted that the letter had no connection with the impugned broadcast. She reiterated that the Hon'ble Bombay High Court had prohibited the broadcast of leaked information. That Hon'ble Justice Chandrachud in his dissenting judgment in the Bhima Koregaon case itself, had also stated that *"police briefings to the media have become a source of manipulating public opinion by besmirching the reputations of individuals involved in the process of investigation. What follows is unfortunately a trial by the media"*. The said observations were made by Hon'ble Chief Justice when the media were reporting the Bhima Koregaon case. She questioned what the broadcaster intended to convey/imply by connecting the Bhima Koregaon case with the security lapse in Punjab.

Furthermore, she stated that at timestamp 52 minutes in the broadcast, the anchor, without any basis, stated that *"its common knowledge that naxalites were hiding in the farmers protest"*. While the anchor did, after a few minutes, clarify that the said statement was

made by a Minister, however, the anchor reported the said statement as a matter of fact. She stated that the anchor could have, at the beginning itself, stated that a Minister was claiming that Naxalites were hiding in the farmers' protest. However, the manner in which the statement was reported created an impression that as a matter of fact, Naxalites were hiding in the farmers' protest. In this regard, she stated that the Specific Guidelines covering Reportage also requires that “*reports received from news-agencies should be attributed and where possible be verified*” and “*Allegations should be reported accurately as made*”. In the instant case, she stated that the allegation was reported as a matter of fact as opposed to being reported merely as an allegation.

### **Submissions of the Broadcaster:**

The broadcaster reiterated the submissions made by it in the previous hearing. It submitted that it had, at the last date of hearing, made detailed submissions in respect of the complainant's objections regarding the use of the word “Naxals” and the reference to the letter found during the Bhima Koregaon raid. The broadcaster submitted that there was no violation of the judgment of the Hon'ble Bombay High Court in the *Nilesh Navalakha & Ors. v. Union of India & Ors.* as the impugned broadcast was not in respect of the Bhima Koregaon raid rather the subject of the impugned broadcast was the Prime Minister's convey being stopped in Firozpur, Punjab. The impugned letter was not aired with the objective of influencing the judgment/decision in the Bhima Koregaon case.

In rebuttal, the authorized representative of the complainant submitted that the guidelines laid down by the Hon'ble Bombay High Court were applicable in the instant case, as the broadcaster had in the impugned broadcast aired the letter, i.e., leaked information. It was improper for the broadcaster to air the letter, which could have an adverse effect on the investigation in the Bhima Koregaon case, which is still sub judice.

### **Decision**

NBDSA considered the complaint, response from the broadcaster and also gave due consideration to the submissions of the complainant and the broadcaster and viewed the footage of the broadcast.

NBDSA noted that the impugned broadcast was a programme titled “Daily News Analysis”, in which a detailed analysis was conducted of the major lapse in the security arrangement of the Prime Minister.

NBDSA also noted that it was the broadcaster's submission that the letter allegedly found during the Bhima Koregaon raid was broadcast by it only to discuss whether the aforesaid incident was merely a lapse in security or an attempt to assassinate the Prime Minister and that it had no intention to prejudice the trial in the Bhima Koregaon case.

Keeping in mind the aforesaid submission of the broadcaster, NBDSA observed that by airing the letter, the broadcaster had not violated the Code of Ethics & Broadcasting Standards and/or Guidelines, as the same was aired only in the context of the major lapse in the security of the Prime Minister and was reported not only by the broadcaster but also by several other media houses.

However, in respect of the statements made by the anchor claiming that “*it was common knowledge that Naxalites were hiding in the farmers protest*”, NBDSA held that the broadcaster should have restrained itself from making such sweeping comments, particularly as such comments do not have any relation to the subject of the impugned broadcast. NBDSA advised the broadcaster to be careful while airing/making such comments.

NBDSA decided to close the complaint with the aforesaid 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 : 26.07.2023**