

**News Broadcasting & Digital Standards Authority**

**Order No 172 (2023)**

**Complainant: Aleyamma Vijayan**

**Programme:**

**Broadcaster: News18 Kerala**

**Date of Broadcast: 30.10.2022**

Since the complainant did not receive a reply from the broadcaster, the complaint was escalated to the second level of redressal, i.e., NBDSA.

**Complaint:**

A legal notice dated 30.10.2022 was sent to the broadcaster regarding the broadcast of a false and defamatory news item about the ongoing Vizhinjam agitation as breaking news. In the impugned broadcast, the complainant's name was mentioned, and it was falsely alleged that the leader of the Vizhinjam agitation had received an amount of Rs.11 crores as foreign funds through his wife, i.e., the complainant's account. The amount was alleged to have been received through the account of an NGO, 'Sakhi' Women's Resource Centre, of which the complainant is the Secretary. The complainant stated that 'Sakhi' is a feminist, non-governmental, non-profit, right-based organization based in Thiruvananthapuram which has been working since 1996. The organization is registered as a Public Charitable Trust and has an FCRA registration.

The complainant stated that 'A J. Vijayan', her husband was not the leader of the ongoing Vizhinjam agitation and had not received an amount of Rs.11 crores as alleged by the channel. Further, 'Sakhi' is a registered body under the Indian Trust Act, and its income is audited annually, and Income Tax Returns are filed promptly. The organization had received foreign funds for implementing their projects, not for the cause of fish workers at Vizhinjam, as alleged. Since it could not conduct field studies, the organization had not accepted funds during the COVID-19 pandemic and the consequent pronouncement of lockdown. If any corruption or malpractice had crept into Sakhi's account, the Central Agencies would have cancelled the FCRA registration and blacklisted the organization. Since Sakhi continues to have FCRA registration, it is evident that the complainant had not received Rs. 11 crores through the account of Sakhi for the protest of fish workers at Vizhinjam, as alleged in the broadcast. Further, Sakhi is very transparent about its activities, and anyone can obtain information about the organization from its website, [www.sakhikerala.org](http://www.sakhikerala.org). Without any iota of truth, the channel had broadcast utterly false and defamatory allegations and had falsely alleged that A.J. Vijayan was the leader of the agitation.

The complainant stated that it was very well known that Latin Athiroopatha was heading the Vizhinjam agitation and that A.J. Vijayan, the complainant's husband, was not a leader of the said agitation. The impugned news item was broadcast without any bona fide and with ulterior motives, which defamed the complainant, her husband, and the reputed NGO 'Sakhi' Women's Resource Centre. Further, in the broadcast, the complainant's phone and WhatsApp number was aired, which amounted to an intrusion of her privacy and had caused damage to her.

The false, defamatory and scandalous allegations have ruined the reputation and goodwill of the complainant and her organization, 'Sakhi'. The channel should, therefore, tender an apology for broadcasting false news and admit openly that it had committed a mistake by broadcasting false news about the complainant and her organization.

### **Complaints dated 19.11.2022 and 3.12.2022 filed with NBDSA**

The complainant stated that she is a 73-year-old senior women's rights activist in the State of Kerala and is the founder member and the Secretary of 'Sakhi', a registered NGO working relentlessly for the emancipation of women and girl children in Thiruvananthapuram for the past 25 years.

On 30.10.2022, to the complainant's utter shock and dismay, the channel aired a 'breaking news' claiming that there was a larger conspiracy to thwart the construction of the Sea Port and that A.J. Vijayan was receiving funds from foreign sources for the purpose, which were being routed through Sakhi's account which his wife, the complainant operated. It was repeatedly stated that the complainant had received Rs.11 Crores through her NGO account, which was transferred to her husband for holding the agitations.

The channel repeatedly aired the aforesaid libellous matter with various slot headings such as '*Prime debate*', '*Big breaking News*' and as part of the news of the day without trying to cross-check the facts with the complainant and projected it as if it were the truth. With an intention to sensationalize, the channel repeatedly zoomed on certain official documents of Sakhi, which carried the personal mobile number of the complainant, which paved the way for the public to get access to the private number of the complainant for lynching through social media.

On becoming aware of the broadcast and the damage being done by the channel, the complainant immediately issued a notice to the channel stating that highly libellous content was being aired and requested for an apology to be tendered for broadcasting the false news item.

Despite this, the channel repeated the story, giving the impression that the law of

the land is least applicable to the channel. By airing the broadcast, the channel infringed all the basic codes elucidated in the *'Guidelines on Broadcast of Potentially Defamatory Content'*, which they are bound to follow, and also violated Clauses 1, 2, 6 of the Code of Ethics & Broadcasting Standards.

The same allegations were broadcast in another debate aired on 30.11.2022, causing further damage to their reputation.

**Reply dated 6.12.2022 from the channel:**

At the outset, the broadcaster denied all the allegations in the complaint. The impugned news story was based on evidence received from credible State sources, which supported the contents of the story. It cannot disclose the evidence or the source to the complainant since the issue raised concerned national security.

It had telecast the impugned news received from credible State sources *as it is* without making any comment on its own on the veracity of the same. The telecast in question was, thus, based on truth which the channel had duly verified, and the records of which are duly maintained and shall be produced before the competent court or authority, if so directed or required.

The broadcaster stated that before telecasting the impugned story, it had tried to establish contact with the complainant, who was not contactable. The complainant's mobile number had not been disclosed for the first time to the public by it; rather, it was already available in the public domain, from where the broadcaster also obtained it.

It vehemently denied that the impugned telecast was defamatory or violated the complainant's privacy, as alleged or at all. It also denied that the impugned telecast had caused any damage to the complainant, much less the damage alleged.

As a responsible member of the media, the broadcaster stated that it had taken all necessary precautions and exercised all reasonable diligence required by the applicable law and guidelines before airing the said telecast.

A perusal of the aforesaid response would clarify that it had complied with the Code of Ethics and Broadcasting Standards, specifically with Clauses 1, 2 and 6, which the complainant had alleged violation of.

The broadcaster contended that it neither has any vested or personal interest in the complainant's personal affairs nor has any axe to grind against her. Its only interest is in effectively disseminating newsworthy material to the public at large. The news story was also telecast with this interest in mind alone, and it had acted responsibly.

Without prejudice to the foregoing, the broadcaster stated that the impugned story expressed, in good faith, an opinion regarding the conduct of a person touching a public question. Further, the story imputed the truth that must be published for the public good.

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

NBDSA considered the complaint regarding the broadcast aired by the channel News18 Kerala on 30.10.2022, the broadcaster's response and, after reading the translated transcript of the broadcast, decided to call both the parties for a hearing.

### **Hearing on 11.03.2023**

On being served with notice, the following persons were present at the hearing:

#### **Complainant**

1. Ms Aleyamma Vijayan, Secretary
2. Adv. Sandhya. J, Member, Sakhi trust

#### **Broadcaster**

1. Mr Puneesh Kochar, Counsel
2. Mr Dan Kurian, Special Correspondent – Editorial & Content
3. Mr Apurv Narula, Assistant Principal Counsel -Legal

#### **Submissions of the Complainant:**

The complainant submitted that in the impugned broadcast, the channel had failed to follow the Code of Ethics & Broadcasting Standards, particularly Clauses 1, 2 and 3. It had failed to adhere to the principles of Objectivity and Impartiality, and the contents of the impugned programme were defamatory. The allegations against its NGO, Sakhi, were repeatedly aired on the channel under different titles.

She submitted that the organization had neither received Rs 11 crores in the said period nor had it diverted any money to other organizations to support the fishermen's agitation against the port, as alleged in the impugned news item. The channel's contention that its reporting was accurate and based on the information received from credible State sources was completely baseless. There was not even an iota of evidence, which supports the allegations raised by the broadcaster in the impugned programme.

NBDSA questioned the complainant whether any FIR or case had been filed against its organization for the diversion of funds. In response, the complainant submitted that no FIR or case had been filed against the organization and reiterated that there was nothing on record to support the allegations aired in the impugned broadcast.

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

The broadcaster submitted that the allegations raised against Sakhi were based on the information received from intelligence sources and the Special Branch of Kerala Police.

Based on the aforesaid submission, NBDSA asked the broadcaster whether the Special Branch of Kerala Police was investigating or had filed a case against Sakhi. In response, the broadcaster submitted that Sakhi was being investigated on account of malpractices.

NBDSA asked the broadcaster whether the allegations aired in the impugned broadcast were based on credible information. The broadcaster submitted that while no complaint had been filed, the Intelligence Agencies, including Central IB officers, were seriously investigating the Port agitations. It had received information from its sources in Intelligence Agencies that there was a purposeful plan behind the agitations. Further, it had in its possession 79 documents which substantiated the allegations raised by it in the programme.

### **Decision of NBDSA at its meeting held on 11.3.2023**

Based on the submission made by the broadcaster that it had in its possession 79 documents which corroborated the claims made by it during the impugned broadcast, the hearing in the complaint was deferred to consider the aforesaid documents. NBDSA accordingly directed the broadcaster to submit the said documents to the Authority with a copy to the complainant.

### **Hearing on 12.05.2023**

On being served with notice, the following persons were present at the hearing:

#### **Complainant**

1. Ms Aleyamma Vijayan, Secretary
2. Adv. Sandhya. J, Member, Sakhi Trust

#### **Broadcaster**

1. Mr Puneesh Kochar, Counsel
2. Mr Dan Kurian, Special Correspondent – Editorial & Content
3. Mr Apurv Narula, Assistant Principal Counsel -Legal

### **Submissions of the Broadcaster**

The broadcaster submitted that it had placed before the Authority certain documents which formed the basis of the impugned broadcast, including the programme expenses, the statements of the Foreign Contribution Account, bank details of Sakhi and the Facebook post of Ms Mercy Alexander, the Treasurer of Sakhi.



It submitted that while the complainant had asserted that Sakhi had no connection with the anti-port strikes, Ms Mercy Alexander, who is the Treasurer of Sakhi, had, in the Facebook post, admitted to participating in the strike during the Onam festival, which the broadcaster submitted indicated a connection between Sakhi and the anti-port strike.

The broadcaster submitted that it had aired six stories covering the conspiracy behind the anti-port strike, including the impugned broadcast, which was the first broadcast. The impugned broadcast covered the conspiracy behind the anti-port strike, including Sakhi's direct link with the strike. Further, the complainant is the Secretary General of Sakhi, whose husband, Mr AJ Vijayan, was part of the anti-port strike. In support of its assertion, the broadcaster submitted photographs of Mr A. J Vijayan participating and addressing the anti-port strike. Further, it submitted that the Deshabhimani newspaper, published on 13.11.2022, also claimed that nine persons were allegedly behind the anti-port conspiracy. The newspaper report had a photograph of Mr A. J Vijayan.

The broadcaster submitted that the publication clearly showed a conspiracy and that foreign money was behind the anti-port strike. In the impugned broadcast, it was reported that between 2017-2022, a sum of Rs.11 crore was deposited from abroad in the accounts of Sakhi. The sum was received against the three projects detailed in the programme expenses, which were submitted by it to the Authority. It was unclear where the organization had spent the money received by it. Further, while it was the submission of the complainant that no agency had collected any details from it, the broadcaster submitted that it had received the details of the accounts from its sources in Central and State Intelligence Agencies.

The broadcaster questioned the complainant as to why the intelligence agencies had collected statements of Sakhi's accounts if there was no connection between Sakhi and the anti-port strike. It submitted that the fact that these statements of accounts were available with the intelligence agencies indicated a connection between Sakhi and the anti-port strike. Further, it submitted that journalists are not required to disclose their sources.

It reiterated that the impugned news received from credible State sources was broadcast *as it is* without making any comment on its own on the veracity of the same. Further, all necessary precautions and reasonable diligence as required by the applicable law and guidelines were exercised before the telecast. Further, it reiterated that the impugned story expressed, in good faith, an opinion regarding the conduct of a person touching a public question. The story imputed truth, which was required to be published in the public good.

### **Submissions of the Complainant**

The complainant submitted that the broadcaster had repeatedly aired the allegations against the organization under different titles. The translated version placed before the Hon'ble Authority was just one of those items and did not give an exact picture of the facts that led to the grievance.

The complainant denied receiving Rs. 11 crore, as alleged. The complainant submitted that there were factual inaccuracies in the assertion made by the broadcaster, as it had, between 2017 and 2022, hardly received Rs. 6 crores. Further, it submitted that Sakhi had received the money through FCRA, which accounts are duly audited and meticulous documentation is maintained. Furthermore, complete transparency is maintained as the accounts are also published on the website of Sakhi.

The allegation that money was diverted from Sakhi to the agitators was false, as even an inspection of all the documents and audited statements would not lead to such a conclusion. She submitted that merely because the husband of the Secretary-General and one of the trustees of Sakhi participated in the agitation cannot lead to the conclusion that the organization had also supported the agitation by diverting funds from foreign partners.

While the broadcaster had at the last hearing submitted that it had in its possession 79 documents which corroborated the claims made by it during the broadcast, the broadcaster had submitted only four documents, which also do not support the allegation of the broadcaster.

The complainant submitted that three days after the story was aired on 13.11.2022, officials from the Intelligence Bureau had asked Sakhi for certain details, which were duly submitted. The officials have taken no action against Sakhi. If there were any merit in the allegations of the broadcaster, action would have been taken against Sakhi. From the story broadcast, it appears that Sakhi was committing treason. The impugned broadcast was false and aired in violation of the Code of Ethics & Broadcasting Standards.

She submitted that merely because Mr. A.J Vijayan was active in the fishermen's struggle against the Port, Sakhi, a well-reputed organization functioning for the last 25 years, was defamed in public by the broadcaster.

In rebuttal, the broadcaster reiterated that it had no personal grudge against Mr A.J Vijayan. Further, it submitted that while the complainant had initially asserted that there was no connection between Sakhi and the anti-port strike. However, after the photograph of the treasurer participating in the anti-port strike was submitted to the

Authority, the complainant has now admitted that its treasurer had participated in the anti-port strike. The broadcaster stated that it is not an investigating agency and had aired the impugned broadcast based on inputs received from Central and State intelligence sources. It reiterated its question that if there was no connection between Sakhi and the anti-port strike, why did the intelligence agencies collect information from Sakhi.

NBDSA questioned the broadcaster whether it had presented the complainant's view in the impugned broadcast. In response, the broadcaster submitted that it had attempted to contact the complainant twice. The complainant had informed its input editors that she would be pursuing legal action against the broadcaster. In rebuttal, the complainant submitted that the impugned broadcast was aired on 13.11.2022 continuously as “*breaking news*” and “*special news*” and that it was only after airing the story for an entire day and defaming Sakhi that the broadcaster had at the end of the day contacted her for her statement. She submitted that since the story had been broadcast the entire day, she felt that no purpose would have been served by giving a statement belatedly. If the broadcaster contended that it had attempted to contact her before airing the story, they could submit call records substantiating their claim.

NBDSA questioned the complainant whether they had filed a legal case against the broadcaster. The complainant, in response, submitted that it had not initiated any legal proceedings against the broadcaster yet.

In response to the allegation that there was a connection between Sakhi and the anti-port strike as Ms Mercy Alexander, one of the trustees of Sakhi, had participated in the agitation, the complainant submitted that Ms. Alexander belonged to the fishing community and had participated in the strike in her personal capacity. She reiterated that Sakhi as an organization had no connection with the anti port strike and had not received any funds since 2020. Therefore, no relationship between foreign funds and the anti-port strike could be drawn.

Further, she submitted that while the broadcaster may not have any personal grudge against the complainant, the broadcaster had defamed Sakhi by airing the impugned broadcast. In any event, she stated that it was not the complainant's responsibility to investigate the intention behind the broadcast. Evidently, the story was ‘*planted*’ with the ulterior motive to demoralize those involved in the struggle against the port. The content was highly defamatory without an iota of truth, which warranted action by this Hon’ble Authority.

NBDSA asked whether any other media outlet, print or otherwise, had reported this story or any part thereof. The complainant, in response, submitted that no other media outlet had covered the impugned story. Two weeks after the impugned



broadcast aired, a story was published in Deshabhimani. However, only Mr A.J Vijayan's photograph was published in the newspaper, and no allegations were made regarding Sakhi. Therefore, she submitted the fact that no other media outlet, print or otherwise, had shown the story, established that the impugned story was false. She stated that Sakhi was accredited by the State Government, and people in the State were well aware of the work carried out by Sakhi.

In the impugned broadcast, it was projected as if the broadcaster itself had witnessed such alleged transactions. The complainant reiterated that before airing the impugned broadcast, the broadcaster had made no attempt to obtain the view of Sakhi, nor was any clarification sought. Since the broadcaster had, by airing the broadcast, already caused considerable damage to the reputation of Sakhi, it felt no purpose would be served by giving its views after the story had already been aired for an entire day. By airing the impugned broadcast, the broadcaster had ruined the reputation of Sakhi and violated the Code of Ethics.

In rebuttal, the broadcaster submitted that the complainant's assertion that no media outlet apart from it had reported the impugned story was false. It stated that Kerala Kaumadi and Deshabhimani, the two leading newspapers of Kerala, had also specifically covered the conspiracy. Due to communal elements, other news channels or outlets did not publish the impugned story. Further, it submitted that it had attempted to contact the complainant simultaneously while airing the impugned broadcast. Therefore, it was false to state that it only contacted the complainant after airing the impugned broadcast.

The complainant also submitted that while it is true that Sakhi carried the complainant's mobile number on its website. However, the private number of the complainant was displayed in the impugned news item, which carried wild, unverified allegations of the complainant's organization working against national security. The mobile number was zoomed in many times solely to make the aged and ailing complainant susceptible to mob lynching and public ire.

### **Decision of NBDSA at its meeting held on 12.05.2023**

Based on the submission made by the parties during the hearing, NBDSA decided to defer the decision in the complaint to obtain from the broadcaster call records, and also directed the broadcaster to submit photocopies of the Malayalam dailies mentioned during the submissions which had carried the news story along with the translated text in English for its consideration. NBDSA decided to inform the complainant and the broadcaster accordingly.

Vide emails dated 5.6.2023 and 7.6.2023, the broadcaster submitted copies of the Malayalam dailies, Deshabhimani and Kaumudi Newspaper along with its transcript

and photographs of Mr A.J Vijayan participating in the anti-port strike. The broadcaster also stated that it would submit call records in case it was able to obtain the same.

### **Decision of NBDSA at its meeting held on 6.07.2023**

After considering the response dated 5.6.2023 and 7.6.2023 of the broadcaster, which contained articles published in Malayalam dailies, Deshabhimani and Kaumudi, along with their translation and the photographs which showed Mr A.J Vijayan participating in the anti-port strike, NBDSA decided to call the parties for a further hearing to consider the additional material furnished by the broadcaster.

### **Hearing on 03.08.2023**

On being served with notice, the following persons were present at the hearing:

#### **Complainant**

1. Ms. Rejitha G, Trustee, Sakhi
2. Adv. Sandhya. J, Member, Sakhi Trust

#### **Broadcaster**

1. Mr Puneesh Kochar, Counsel
2. Mr Dan Kurian, Special Correspondent – Editorial & Content
3. Mr Apurv Narula, Assistant Principal Counsel -Legal

### **Submissions of the Parties**

The complainant submitted that the broadcaster had, at the last hearing, asserted that there were other media reports which corroborated the claims made by it during the impugned broadcast. However, the newspaper reports relied upon by the broadcaster did not mention Sakhi. She reiterated that Sakhi's name was unnecessarily dragged in the impugned broadcast, wherein it was falsely claimed that funds from Sakhi were diverted for the anti-port strike.

In rebuttal, the broadcaster submitted that at the last hearing, the Authority had directed the broadcaster to furnish call records, which substantiated its submission that it had attempted to contact the complainant before airing the impugned broadcast. The broadcaster stated that it had reached out to its service provider for call records; however, the service provider refused to share the call records without a Court Order. That it would be submitting the said communication with the service provider for the records of NBDSA.

Regarding the complainant's submission that Sakhi's name was not carried in any other newspaper or media reports, the broadcaster submitted that the other news media reports may not have carried Sakhi's name because of editorial discretion. At

the last hearing, it had been brought to the notice of the Authority that Ms. Mercy Alexander, a person working in Sakhi had participated and had spoken during the strike. While the complainant's submission was that Ms Alexander had participated in the anti-port strike in her personal capacity, her presence in the strike establishes a connection between Sakhi and the anti-port strike. The broadcaster reiterated that it had received information from its intelligence sources that Sakhi had been collecting money from other countries for various women empowerment programmes; however, it was unclear for what specific purpose the money was being used. In the impugned programme, it was only mentioned that from 2017 to 2021, a sum of Rs. 11 crores had been deposited in the accounts of Sakhi. The copies of the financial statement received from Intelligence sources were submitted to the Authority. The broadcaster questioned why the Intelligence sources had access to its financial information if Sakhi was not involved in any such activities. The fact that Intelligence Agencies itself had collected the information from Sakhi clearly showed that there was some involvement.

The complainant, in rejoinder, stated that it had neither received Rs. 11 crores as alleged by the broadcaster nor had it diverted funds for the agitation. The broadcaster had spread completely inaccurate information in the impugned broadcast, which was false and defamatory. Further, the complainant submitted that no call records would be available as the broadcaster had not attempted to contact the complainant before airing the broadcast.

### **Decision**

NBDSA considered the complaint, response of the broadcaster and also gave due consideration to the submissions of the parties and the translated transcript of the broadcast.

At the outset, NBDSA observed that it was not an investigation agency but a standards body whose jurisdiction was confined only to violation(s) by Members of the Code of Ethics & Broadcasting Standards (Code of Ethics), Guidelines and Advisories. In the instant case also, it would confine its analysis and decision only to the alleged violation of the Code of Ethics, Guidelines and Advisories in the impugned broadcast.

NBDSA noted that a perusal of the transcript reveals that the broadcaster had, during the impugned broadcast, only reported the allegations raised against the complainant and her NGO 'Sakhi', without providing the version of the complainant, i.e., the person affected.

NBDSA observed that under the Code of Ethics & Broadcasting Standards, broadcasters must ensure neutrality by offering all affected parties an opportunity to

present their point of view. However, in the impugned broadcast, it appears the broadcaster was swayed by its investigation and failed to maintain neutrality and objectivity in the programme. NBDSA noted that during the hearing, the broadcaster had submitted that it had attempted to contact the complainant for her version before airing the impugned broadcast, however, the said submission had been refuted by the complainant, who had asserted that the broadcaster had only contacted her after airing the impugned programme. NBDSA observed that the broadcaster could have sent an email to the complainant stating that it would want to take her version prior to broadcasting the programme. In view of the fact that the complainant's version was not broadcast, NBDSA observed that the broadcaster should have informed the viewers that it could not contact the affected party, i.e., the complainant, for her version.

By failing to report the complainant's version, the broadcaster had violated the Principle of Ensuring Neutrality under the Code of Ethics & Broadcasting Standards and Guideline No.8 of the Guidelines on Broadcast of Potentially Defamatory Content, which requires that *"before reporting any accusation or allegation the version of the person affected must be obtained and aired simultaneously with the accusation or allegation to give a complete picture to the viewer. In the event of inability to obtain the version of the affected person(s) within a reasonable period, the same should be aired simultaneously and authentic contemporaneous records of the effort made should be maintained"*.

In view of the above, NBDSA decided to issue a warning and advised the broadcaster to adhere to the Code of Ethics, Guidelines and Advisories in all future broadcasts.

NBDSA also advises the broadcaster not to telecast the mobile number of any person, without prior consent.

NBDSA further also directed the broadcaster to remove the video of the said broadcast, if still available on the website of the channel, or YouTube, and remove all hyperlinks including access which should be confirmed to NBDSA in writing within 7 days 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 : 02.11.2023**