

BEFORE THE NEWS BROADCASTING STANDARDS AUTHORITY

NEW DELHI

Complaint No. 5 of 2011 (SM)

In the matter of : M/s. Associated Broadcasting Company Pvt. Limited
Plot No. 97, Road No.3
Banjara Hills
Hyderabad – 500034
Andhra Pradesh

Telecast of programme titled “Gay Culture Rampant In Hyderabad”
on TV9 News Channel on 22.02.2011

ORDER

1. Numerous complaints were received via e-mails in relation to a programme titled “Gay Culture Rampant In Hyderabad” that was broadcast by M/s. Associated Broadcasting Company Pvt. Limited on their television news channel “TV9” on 22nd February, 2011 from 15:11 hrs. to 15:17 hrs. which contained a story relating to mushrooming of gay culture in Hyderabad, Andhra Pradesh.
2. The significant features of the Programme were as under:
 - 2.1 The subject matter of the Programme was the purported mushrooming of “gay culture” in Hyderabad, Andhra Pradesh particularly enticing of software employees and students into the “gay culture”;
 - 2.2 Information and material for the Programme was drawn to a large extent from a social networking site for gays, with the URL:

www.planetromoeo.com; and it was claimed in the Programme that through the said Website large number of gay men, including many from Hyderabad were interacting, chatting and communicating with one another and were also meeting each other ;

- 2.3 In the Programme, the Channel showed visuals of what was claimed to be a three-star club in Secunderabad, where apparently, gay men were meeting to drink, dance and to enjoy the company of each other. What is significant is that the visuals shown were un-morphed of certain persons (purportedly gay) ;
- 2.4 Further, the Programme contained telephonic conversations between the Broadcaster's reporter and two persons – named, Rajesh and Sai – in which conversations, the reporter spoke to them about their sexual preferences and their possible sexual rendezvous. In that broadcast un-morphed picture of one Dheeraj Upadhyaya was also shown along with that of Rajesh and Sai;
- 2.5 Towards the fag-end of the Programme, there was also reference to people exploiting gays by misleading and enticing them into sexual relationships and then blackmailing them. It is noteworthy that reference to this “criminality” appears merely by way of a post-script through a “V.O.” i.e. voiceover – namely the *ipse dixit* of the reporter, without any further substantiation ;

- 2.6 The Programme throughout contained loud music, some of which was admitted to have been added by the broadcaster, to create a titillating effect.
3. The NBSA took suo motu cognizance of the matter and issued a Show Cause Notice dated 24.02.2011 calling upon the Broadcaster to respond to it within 14 days of its receipt. Subsequently a Notice dated 1.03.2011 was issued scheduling a hearing on 15.03.2011.
4. In its response dated 12.3.2011, titled a 'short response' the Broadcaster in fact gave the entire defense. Accordingly, an oral hearing was given to the Broadcaster through its Counsel Ms. Prathiba M. Singh, Advocate as well as Mr. M.K.V.N. Murthy, Chief Financial Officer of the Broadcaster.
5. The defense of the Broadcaster is the following:
- 5.1 In broadcasting the Programme it had no intention of criticizing the gay culture, but had sought to bring-out through investigative journalism that (innocent) people were being enticed to illegal and unlawful activities ;
- 5.2 The Programme was intended to warn the society at large and the concerned families of the murky affairs in the gay culture, since, a large number of youngsters visit such places where even persons with regular

sexual orientation were being made to (wrongfully) indulge in gay relationships;

- 5.3 It was claimed to be a “genuine story” telecast only once for a duration of 6 minutes and 51 seconds ;
- 5.4 The story was claimed to be *bona fide* revealing personal information already in public domain on a website www.planetromoeo.com where people voluntarily had given the information, because of which there was no breach of privacy of any individuals ;
- 5.5 Without showing or identifying any doctor it was claimed that medical opinion apprehended the spread of diseases by such illicit physical relationships ;
- 5.6 The Programme claimed to prevent blackmail of people by such illegal and unlawful elements in the garb of gay culture ;
6. It is significant that in Para 22 of its reply the Broadcaster admitted as follows:
- “In retrospect, TV9 believes that while achieving its objective it could have kept the image and the principles of the persons interviewed in a masked manner by not revealing their true identities. TV9 feels it could have exercised better discretion.....”*

7. The relevant provisions in the Code of Ethics & Broadcasting Standards relating to sex and nudity, privacy and sting operations binding on the Members of NBA are:

Clause 5: Sex and nudity

“News channels will ensure that they do not show, without morphing, nudity of the male or female form....”

Clause 6 : Privacy

“As a rule channels must not intrude on private lives, or personal affairs of individuals, unless there is a clearly established larger and identifiable public interest for such a broadcast. The underlying principle that news channels abide by is that the intrusion of the private spaces, records, transcripts, telephone conversations and any other material will not be for salacious interest, but only when warranted in the public interest....”

(Emphasis Added)

Clause 9 : Sting operations

“As a guiding principle, sting and under cover operations should be a last resort of news channels in an attempt to give the viewer comprehensive coverage of any news story. Sting operations, will also abide by the principles of self regulation mentioned above, and news channels will ensure that they will be guided, as mentioned above, by an identifiable larger public interest. News channels will as a ground rule, ensure that sting operations are carried out only as a tool for getting conclusive evidence of wrong doing or criminality. ...”

(Emphasis Added)

8. The Authority viewed the programme and perused its transcripts at the oral hearing on 15.3.2011, and heard the Broadcaster’s counsel. The conclusions reached by the Authority are the following :

- 8.1 The Broadcaster defense that the Programme was aired to warn the public at large of the “crime” of blackmail being committed by certain persons who were enticing people into the gay community is untenable. It is clear from the visuals considered along with the transcript that there is no significant reference to such ‘criminality’ in the entire programme ;
- 8.2 The conversation between the Broadcaster’s reporter and the named individuals also did not contain or expose the alleged criminality to subserve public interest ;
- 8.3 The overall impact of the Programme was only to make a sensationalized depiction of the gay culture alleged to be prevalent in Hyderabad ;
- 8.4 The contention that the names, pictures, images, phone numbers and other particulars of persons featured in the Programme were in public domain on the website www.planetromoeo.com is factually incorrect, inasmuch as the said website has an open/public section which gives general information about the activities etc. that are conducted on the said website but does not contain particulars and pictures of individuals; and there is a separate members area, access to which is controlled by a membership identity and password to access which one would need to enroll as a member of the said website. While the names, particulars and photographs etc. of individuals may be available in the said members-only section, it cannot be said that such names, particulars and photographs are therefore available in the public domain ;

8.5 In effect what the content of the Programme clearly did was: instead of carrying a “crime story” it merely carried evidently a gratuitous depiction and reportage of homosexuality among men without any underlying serious message for the society; the Programme needlessly violated the right to privacy of individuals with possible alternate sexual orientation, no longer considered taboo or a criminal act; and the Programme misused the special tool of a “sting-operation” available only to subserve the larger public interest.

Accordingly, the Broadcaster has violated Clauses 5, 6 and 9 of the Code of Ethics binding on the Members of NBA. The defense of the Broadcaster and its attempt to justify telecast of the programme in public interest is wholly untenable.

9. Thus, by telecasting the programme “Gay Culture Rampant in Hyderabad” on 22nd February, 2011 from 15:11 hrs. to 15:17 hrs. on TV9 news channel, the Broadcaster is guilty of breach of the Code of Ethics & Broadcasting Standards and liable for the logical consequences ;

10. For the aforesaid reasons NBSA holds and directs as under:

10.1 A strong “censure” of the acts and omissions in relation to the subject broadcast made on TV9 news channel ;

10.2 To pay a fine of Rs. 1,00,000/- (Rupees One Lac Only) to the News Broadcasters Association within 7 (seven) days of receipt of this Order ;

- 10.3 Within 7 (seven) days of receipt of this Order, run on TV9 news channel the following text (static) on full screen in legible font size with voice over (in slow speed) for 3 (three) consecutive days beginning the Monday next after receipt of this Order, expressing regret for the said telecast between 20:00 hrs. and 21:00 hrs. in English and between 15:00 hrs and 16:00 hrs in Telugu (accurately translated)

“TV9 apologizes for the story “Gay Culture Rampant In Hyderabad” telecast on this channel on 22nd February, 2011 from 15:11 hrs. to 15:17 hrs. particularly since the story invaded the privacy of certain persons and was in violation of the Code of Ethics & Broadcasting Standards of the News Broadcasters Association. Any hurt or harm caused to any person thereby is sincerely regretted.”

- 10.4 To supply to the NBA a Compact Disc containing the broadcast of such apology / regret with particulars of the time and date of broadcast ;

11. The Authority further directs the NBA :

- (a) to circulate a copy of this Order to the viewers from whom complaints were received by e-mail;
- (b) to send a copy of this Order to the Minister of Information & Broadcasting and to the Secretary, Ministry of Information & Broadcasting ;
- (c) to host the summary of these proceedings on its website and to include such summary in its next Annual Report and also inform the Members of the NBA.
- (d) to send a copy of this Order to the broadcaster M/s Associated Broadcasting Company Pvt. Limited and to NBA for necessary compliance.

Sd/-
(Justice (Retd) J S Verma)
Chairperson

Place : New Delhi
Dated : 21 March 2011