BEFORE THE NEWS BROADCASTING STANDARDS AUTHORITY

NEW DELHI

Complaint No. 7 of 2011

In the matter of : M/s Zee News Ltd.
No 19, Film City, Sector 16A
Noida 201301

And in the matter of : M/s Media Content & Communications Services (India) Pvt. Ltd.
A-37, Sector 60,
Noida – 201307

: Telecast of news stories / programmes on Shri DK Dhar, Senior Manager, Corporation Bank, Ambala on news channels Zee News and Star News in January, 2011

O R D E R

1. A complaint dated 6th April, 2011 was received from one Mr. D.K. Dhar of Shimla in relation to the series of news stories broadcast on Zee News television channel between 26.01.2011 and 04.02.2011 (elsewhere in the complaint, stated to be between 26th January, 2011 and 31st January, 2011) of a programme relating to the alleged recovery of Rs. 1 crore cash which was supposed to be connected with the Tibetan-Buddhist High Priest "Karmapa". Another complaint dated 26th April, 2011 was received from the same Shri D.K. Dhar in relation to the series of news stories broadcast on Star News television between 26.01.2011 and 04.02.2011 (elsewhere in the complaint, stated to be between 26th January, 2011 and 31st January, 2011) in relation to same episode of recovery of cash supposedly connected with the Karmapa. On receipt of the complaints vide emails dated 19.4 2011 & 3.5. 2011 both the broadcasters were requested to preserve all the stories/programmes .
2. The Authority also noted that it was clear from the record that Zee News and Star News had not responded directly to the complaints received from the complainant within the time frame stipulated under the NBSA Regulations.
3. Since there was some delay in filing of the said two complaints, under the News Broadcasting Standards Regulations the Complainant sought condonation of such delay on the ground that he had been under arrest from 28th January, 2011 to 4th March, 2011 and it was for this reason he was unable to file the said complaints within the time stipulated under the said Regulations.
4. Since the two complaints related essentially to the same subject matter and had been preferred by the same Complainant, it was deemed appropriate that both the complaints be considered and decided together. Since the reason cited for the delay in filing of the

said complaints was compelling, the Authority condoned the delay and decided to consider the complaints on merits.

5. In brief, the allegations in the two complaints filed by Shri D.K. Dhar against Zee News and Star News were that :

(i) The Complainant was employed as Senior Manager at Corporation Bank, Ambala for the past 11 months and had served the Bank at various branches, in various capacities for some 27 years with an unblemished service record, with various awards to his credit;

(ii) A sum of Rs. 1 crore was to be received at the Corporation Bank, Ambala comprising the sale proceeds of a property sold by a customer of the Bank Shri K.P. Bhardwaj ; and this money was to be remitted from Delhi to Ambala ;

(iii) The Complainant issued to the said customer a Remittance Certificate so that the money could be carried from Delhi to Ambala/Panchkula to be deposited in the Bank. The Complainant further stated that he issued the said Remittance Certificate based on sufficient proof of the source of funds to be received by him from the said Shri K.P. Bhardwaj at his Bank. The complainant in his written statement has also stated that the money could not be remitted as it reached the bank after the close of banking hours.

(iv) The Complainant further stated that he was arrested by the Himachal Pradesh Police on 28.01.2011 and remained in custody until 04.03.2011;

(v) In this background, the Complainant alleged that a series of stories broadcast by Zee News and Star News between 26.01.2011 and 04.02.2011 (elsewhere in the complaints, stated to be between 26th January, 2011 and 31st January, 2011) in relation to the said episode, were one-sided, false and incorrect ;

(vi) In substance, the grievance made by Shri D.K. Dhar against the stories broadcast on Zee News and Star News (the "said Channels") was that the said Channels had acted as a mouthpiece of the Superintendent of Police, Una, Himachal Pradesh and had misrepresented that the Remittance Certificate issued by the Complainant was fake, without attempting to verify the genuineness of the said certificate or contacting any person other than the Police. The Complainant further alleged that in spite of the said Remittance Certificate having been verified by the Police on 28th January, 2011. The said Channels mislead the viewers in their stories that the said Remittance Certificate was fake. The Complainant further stated that the sellers and purchasers of the land in connection with which the said money was received had appeared before the Police and confirmed the genuineness of the transaction ;

(vii) Furthermore, the Complainant alleged that news reports carried on Zee News and Star News also stated that the Complainant used to stay at a guest house in Ambala owned by the within named Shri K.P. Bhardwaj, where they used to meet, which was also completely false since Shri Bhardwaj did not own any property in Ambala ;

(viii) The Complainant also alleged that in the stories run on Zee News and Star News, the said Channels had dubbed the Complainant as a "suspected Chinese agent" or having Chinese connection, who had been working for the Karmapa, which the Complainant stated was also completely false ;

(ix) According to the Complainant, such reportage amounted to the highest form of lack of neutrality, fair and objective reporting on the part of the said Channels ;

(x) It was the Complainant's grievance that by reason of the said broadcasts, which were entirely one-sided and were carried without any verification, the Complainant's good name and image as also that of the Bank he had served, had been tarnished. Furthermore, the Complainant alleged that the said broadcasts had ruined the reputation and credibility of his family as a whole.

6. Upon a prima facie view being taken of the said complaints, the Authority issued notices both dated 20.6.2011 to Zee News and Star News calling upon them to submit their response in the matter, which was received from Zee News vide its reply dated 1.7.2011 and from Star News vide its reply dated 4.7.2011.

7. In gist, the response received from the said Channels was that the series of stories on the subject matter were based upon statements made by the SP Una and upon the contents of the First Information Report (FIR) registered in the matter. In fact, Zee News denied having run any story dubbing the Complainant as a 'suspected Chinese agent"; Zee News also denied having any reporter by the surname 'Patial' ; Zee News also denied having said in any of its broadcasts that the Complainant used to stay at the guest house of Shri KP Bhardwaj at Ambala or that he used to meet the said person there. Zee News stated that they had never assumed the role of an investigator and had not given any 'verdict' on the authenticity of the said Remittance Certificate.

8. The response of Star News, received vide Reply dated 30-05-2011 issued by their lawyers, was vague to say the least and no specific answers were given to the allegations of one-sided and partial reportage, except to assert the supremacy of the free speech guarantee available to the media under our Constitution..

9. Upon closer reading, it appears that the complaints sent by the Complainant against Zee News and Star News were virtually the same, so much so that certain allegations that did not even relate to broadcasts carried on Zee News had been leveled by the Complainant against the said Channel.

10. On the basis of the complaints received from Shri D.K. Dhar and the response received from the Zee News and Star News, the Authority convened a hearing in the matter on 27.7.2011 at which hearing all concerned parties were heard at length. However, almost at the conclusion of the said hearing, the Complainant requested the Authority to allow him to submit some additional material for its consideration. The Authority accepted the request made by the Complainant; and accordingly further hearing in the matter was deferred to 26.8.2011 permitting the Complainant to submit before the Authority such additional material that he deemed relevant before that date. In spite of such opportunity however, the Complainant did not send to the Authority any substantial further material; except some additional information before the Authority vide Complainant's communication date 4th August, 2011. The complainant had also stated that he is unable to visit Delhi frequently as he had brought all the facts to the notice of the Authority.

11. At the hearing scheduled for 26.8.2011 the Authority considered the matter in detail, in light of all the material (including the additional information) placed before the Authority

by the Complainant and the defense cited before the Authority by Zee News and Star News.

12. The Authority notes that the Complainant did not fairly disclose to the Authority that the criminal prosecution arising from the incident was still pending against him, until he was closely queried on this issue at the hearing. The Authority records that, especially in view of the pending criminal prosecution it was inappropriate for the Authority to entertain any issue or make any comment on the merits of the investigation or the prosecution. It is also noticed though, that while the Complainant cited that certain Star News broadcasts concerning him are available on YouTube, the said Channel expressed ignorance as regards to such broadcasts, which stand, of the broadcaster is evidently not forthright.

13. However, considering the matter in the limited compass of the NBA Code of Ethics & Broadcasting Standards and other Specific Guidelines issued from time to time, the Authority is of opinion that the broadcasters viz. Zee News and Star News acted well within their "ethics" in reporting upon the investigation in the matter, not least because this was no ordinary investigation but related to the allegations of wrongdoing by the Tibetan-Buddhist High Priest – the Karmapa ; and accordingly, the public were entitled to know about the goings-on in the investigation. The Karmapa story was widely broadcast across all national news channels.

14. Upon an overall consideration of all facts and circumstances, the Authority is of the opinion :

14. 1 Insofar as Zee News is concerned, no allegations, other than those borne-out from information received from the investigating authorities, was reported in the broadcasts made by the said Channel; and in fact, the Authority is of the view that the broadcast of information by Zee News on the ongoing investigation does not require any further scrutiny. Accordingly, the Authority finds nothing objectionable or amiss in the news stories in regard to the complaint carried on Zee News television channel ;

14.2 However insofar as Star News is concerned, the Authority finds that while the said Channel had made certain sensational comments and drew certain inferences from the Police version of the investigation in relation to the Complainant, before doing so Star News did not even attempt to obtain the Complainant's version on the matter; and the Complainant's version was accordingly not included in the reportage while carrying serious allegations against the Complainant. As stated above, in this regard the response received from Star News vide their lawyers' communication dated 30th May, 2011, was vague and offered no specific answer. To cite an instance, Star News had dubbed the Complainant as a "suspected Chinese agent", on the video available on YouTube. This is not mentioned in the CD submitted by Star News to support such allegation. Even though Star News claimed that it had no knowledge of the fact, yet it did not take any action for its correction in case it was incorrect. Star News' omission to take the Complainant's version on the serious allegations telecast against him amounted to lack of due-diligence and was a clear breach of the broadcaster's obligation of fair reporting; and such one-sided reportage was anathema to fair and objective reporting. Such reportage was in breach of Guidelines 1 and 2 of the Specific Guidelines Covering Reportage dated 10.2.2009 relating to Accuracy, Impartiality, Neutrality and Fairness.

15. Accordingly, the Authority issues to M/s Media Content and Communications Services (India) Pvt Ltd. / Star News television channel a "warning" for its omission in having carried a one-sided story without obtaining the version of the person being reported upon ; and Star News is hereby advised to be careful on this account in the future.
16. The Authority would like to observe that the grievance of the complainant having arisen within the aforesaid period of 90 days, it was expected that all the relevant records relating to the complaint should have been retained by the channel for scrutiny to decide the complaint.
17. The Authority further wishes to place on record that in view of the ongoing criminal proceedings against the Complainant, nothing stated by the Authority in this order has any reference whatsoever to the merits of the case that are likely to arise for a decision by the competent Court in such criminal trial or other proceedings.
18. The complaints made by Shri D.K. Dhar are disposed of in the above terms.
19. The Authority further directs the NBA :
    (a) to send a copy of this Order to both the concerned broadcasters within 7 days of issuance for noting and future compliance ;
    (b) to also send a copy of this Order to the Complainant Shri DK Dhar for his information ;
    (c) to host a summary of these proceedings on the NBA website and to include such summary in the NBA's Annual Report

Sd/-

Justice J S Verma (Retd.)
Chairperson

Place : New Delhi
Dated : 29 August, 2011