

News Broadcasting Standards Authority

Complaint No. 8 of 2011 (SM)

In Re: "Will Kanimozhi turn approver" : Topic of debate broadcast on the programme "News Hour" by M/s. Times Global Broadcasting Company Ltd. on its news channel "Times Now"

O R D E R

1. On 20th May 2011, the English news television channel "Times Now" (the "said Channel") telecast what was described as a debate show titled "Will Kanimozhi turn approver" (hereinafter the "said Programme") on its primetime programme "News Hour" which was anchored by the Editor-in-Chief of the said Channel Mr. Arnab Goswami. The news channel "Times Now" is owned and operated by M/s. Times Global Broadcasting Company Ltd.
2. Upon information placed before the News Broadcasting Standards Authority (hereinafter the "NBSA") inter-alia by complaint letter dated 24th June, 2011 received from one Mr. Sharad Shah of Mumbai in this regard and upon viewing the said Programme, it was decided that prima facie the subject matter, tone and tenor of the said Programme appeared to be objectionable inasmuch as the content thereof was needlessly speculative and conjectural in relation to a very serious matter that was sub judice before the Trial Court as well before the Supreme Court of India. The Authority therefore decided to initiate suo motu action against the said Broadcaster as provided in the NBSA Regulations.
3. Accordingly, Notice dated 29th August, 2011 (the "said Notice") was issued by the NBSA to M/s. Times Global Broadcasting Company Ltd. (the "said Broadcaster"), calling upon the said Broadcaster to respond why action be not taken against it under the NBA Regulations for broadcast of the said Programme which violated the NBA Code of Ethics & Broadcasting Standards and Specific Guidelines for Reporting Court Proceedings dated 15.9.2010 issued by the NBA relating to coverage of Court proceedings by member news channels.
4. In response to the said Notice, the said Broadcaster submitted Reply dated 16th September, 2011 (the "said Reply"); and at a personal hearing given in the matter on 21st September 2011, Shri Srinjoy Choudhury, Senior Editor alongwith Ms. Jyothi Suresh Kumar, DGM-Legal & Company Secretary, appeared before the NBSA and made the following principal submissions:
 - 4.1 That the show "News Hour" is a "live debate show" which invites prominent speakers and provides an equitable platform to all

participants to put forth their views freely and such debates cover current issues that have gained importance and which have an impact on the nation and the public at large;

- 4.2 That the debate conducted on the show on 20th May, 2011 was surrounding the news report on the arrest of Ms. Kanimozhi by the Central Bureau of Investigation (“CBI”) in relation to the 2G Scam ; and the deliberations and discussions between the participants in the said Programme focused on such arrest and the participants presented their opinions on the emerging situation in the case, which according to the said Broadcaster gave a balanced approach to the debate;
 - 4.3 That therefore, in the submission of the said Broadcaster, the questions posed in the debate regarding arrest of Ms. Kanimozhi were not intended to speculate on a matter that was sub judice but only to bring to the table specific points for discussion on a subject that was of national interest and was politically significant and relevant to the country ; and further
 - 4.4 That the programme “News Hour” did not purport to carry hard news and was not in that sense a programme “reporting news” but was in the nature of a debate show in which it was legitimate to raise a question such as the one raised in the episode in question.
5. The NBA Specific Guidelines for Reporting Court Proceedings (the “NBA Guidelines”) clearly provides that “conjectures and speculation shall be avoided in news reports relating to proceedings pending in a Court, Tribunal or other judicial forum”, while it is said that “it shall be open to a news channel to report on pending judicial proceedings provided the report so broadcast is accurate, authentic and correct version of what has transpired in Court ; and is fair and reasonable to the contesting parties”. It is also provided therein that no news channel shall broadcast anything which purports “to report a journalist’s or the news channel’s own opinion, conjectures, reflections, comments or findings on issues that are sub judice or which tend to be judgmental in relation to the subject matter that is pending in a Court, Tribunal or other judicial forum” ; or “which is a comment on the personal character, culpability or guilt of the accused or the victim”.
 6. Therefore, the question that arises for consideration of the Authority is whether the “News Hour” debate on the topic “Will Kanimozhi turn approver” conducted on the said Channel on 20.5.2011 violated the NBA Code and Specific Guidelines in this behalf.

7. The topic for debate, as worded, clearly implies the complicity or guilt of the accused Kanimozhi in the offence being tried by a competent Court of law. Only an accused who admits guilt can turn approver. This was clearly a “conjecture and speculation” which was not part of what had transpired in the Court proceedings until then. It is clear that a debate on this issue was neither a report of the Court proceedings nor was it related to what had transpired in the Court proceedings till then.
8. The likelihood of the debate on this issue influencing the minds of the persons concerned in dealing with this issue, if and when it arises, cannot be ignored. The entire debate, particularly the stress by the anchor, on a particular point of view was unwarranted and did not amount to neutral and balanced reporting of any Court proceedings. This was wholly unwarranted.
9. The debate on the issue and, especially the manner in which it was conducted by the anchor (the Editor-in-Chief of the said Channel), violated both the letter and spirit of Guidelines 3 & 4 of the Specific Guidelines for Reporting Court Proceedings dated 15.9.2010, which are extracted below for ease of reference :

“3. *Conjectures and speculation shall be avoided in news reports relating to proceedings pending in a Court, Tribunal or other judicial forum.*

“4. *Except where a Court, Tribunal or other judicial forum conducts proceedings in-camera or expressly directs otherwise, it shall be open to a news channel to report on pending judicial proceedings provided the report so broadcast is an accurate, authentic and correct version of what has transpired in Court ; and is fair and reasonable to the contesting parties.*

Provided however, that no news channel shall broadcast anything:

- (i) *Which is in the nature of a running commentary or continuing debate (including oral comments made by the Court, Counsel, litigants or witnesses during Court proceedings) which do not form part of the record, when proceedings are pending in the Court, Tribunal or other judicial forum;*
- (ii) *Which purports to report a journalist’s or the news channel’s own opinion, conjectures, reflections, comments or findings on issues that are sub judice or*

which tend to be judgmental in relation to the subject matter that is pending in a Court, Tribunal or other judicial forum;

(iii) Which is a comment on the personal character, culpability or guilt of the accused or the victim; or

(iv) Which otherwise interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending in a Court, Tribunal or other judicial forum;

(v) Which may amount to contempt of Court;”

10. After thoroughly considering the content and context of the said Programme, and also deliberating in detail upon the nature of the said Programme and of the issue being sought to be debated, the Authority is of the opinion that a broadcaster cannot be permitted to speculate or make unrestrained conjectures, or to permit its panelists to speculate or make unbridled conjectures, in relation to an extremely serious criminal matter that is pending adjudication before the Trial Court as well as being monitored by the Supreme Court of India, masquerading such conjectures and speculation as “debate” on a public platform of such immense reach and power as a national television news channel.
11. It may also be noted that in the context of the reportage made of the Aarushi Talwar murder case, which issue is also sub judice before the Hon’ble Supreme Court of India and the concerned Trial Court in Ghaziabad, on 21st February, 2011 the Authority had convened a special meeting to review the telecast of both news and special programmes in the context of sub judice matters ; and had discussed in detail the issue of reportage of criminal trials and such like proceedings pending before Courts of law. At the said special meeting, the Authority had decided that member broadcasters be again advised to strictly adhere to the Specific Guidelines for Reporting Court Proceedings while covering matters which are sub judice. The Authority had also decided to keep a close watch on reporting of *sub judice* matters and that non-compliance would lead to *suo motu* action by the Authority. Pursuant thereto the NBA had issued Advisory dated 23.2.2011 to all its member broadcasters.
12. The Authority therefore, is compelled to take a stringent view of this matter. The Authority is also persuaded to do so for the reason that the said Programme covered a very serious and sensitive criminal trial which is pending in Court, and the fairness of which should not be compromised by any extraneous impact.

13. After considering the said Broadcaster's written response to the Notice and after hearing the representatives of the said Broadcaster, the Authority accordingly concludes that the said Broadcaster was in clear violation of Guidelines 3 & 4 of the Specific Guidelines for Reporting Court Proceedings dated 15.9.2010.
14. Accordingly, the Authority issues to the said Broadcaster a "censure" for the breaches committed by it and makes it clear that any further transgression by the said Broadcaster would be dealt with more severely.
15. The Authority further directs the NBA:
 - (a) to send a copy of this Order to the said Broadcaster for noting and for future compliance ;
 - (b) to circulate this Order to all Members/Editors of NBA ;
 - (c) to host a summary of these proceedings and of the present Order 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 : 19 October 2011