

NEWS BROADCASTING STANDARDS AUTHORITY

Order No.18 of 2012

Re: Complaint dated 14th September 2011 filed by the Rajiv Gandhi Charitable Trust against TV18 Broadcast Limited in respect of broadcast dated 1.8. 2011 and subsequent broadcasts in relation to the RGCT.

ORDER

1. Complaint dated 14.9.2011 was received by the News Broadcasting Standards Authority ("NBSA") from the Rajiv Gandhi Charitable Trust (RGCT), through its Chief Executive Officer Dr Y.S.P. Thorat regarding news reports broadcast on CNN-IBN and IBN7 news channels alleging "Gandhi Trust flouting law?" & "Rules bent to aid Gandhis?" in relation to the land allegedly allotted to the RGCT for its proposed charitable eye hospital in District Gurgaon, Haryana. The first news report in this regard was broadcast on CNN-IBN & IBN7 on 1st August, 2011 and subsequent reports were broadcast on various dates and time up to 5th August, 2011 by both the channels. The grievance made in the complaint was that through these news reports, the Channels had represented that the RGCT had flouted the law and that rules had been bent for the benefit of the Gandhis belonging to a prominent political family of the country.
2. It may be mentioned that when the complaint was initially preferred by the RGCT directly to the NBSA, on 23.09.2011 the NBSA had observed to the RGCT that as per NBSA Regulations they should first file a complaint with the concerned broadcaster, which is the first tier of grievance redressal under the NBA's independent self-regulatory regime; and only thereafter, if the Broadcaster did not respond or if the complainant was not satisfied with the Broadcaster's response, a complaint may be filed before the NBSA.
3. Pursuant thereto, the RGCT filed a complaint dated 7.10.2011 before IBN18 Broadcast Limited, to which the Broadcaster responded vide its letter dated 20.10.2011 and denied having violated the Code of Ethics or any other related Guidelines of the NBSA. It replied that the stories emanated from the fact that "all the inhabitants of village Ulhawas in Haryana had approached the Hon'ble High Court of Punjab & Haryana seeking to bring an end to the allegedly discriminatory approach adopted by the Government of Haryana with regard to the execution and implementation of the State's land acquisition policy; these villagers had alleged before the Hon'ble High Court that preferential treatment had been accorded by the Government of Haryana to a chosen few (including your Trust)". The broadcaster having taken this stand, in order to avoid any future controversy and with a view to bring an amicable end to the dispute raised by the Trust, purely in good faith, it expressed willingness to telecast additional comments on behalf of the Trust on their stories should the CEO or any of the trustees be willing to speak to them on the subject. This offer was made subject to the unconditional withdrawal of the complaint by the Trust.

However, vide its communication dated 25th October, 2011, RGCT declined to accept the Broadcaster's offer; and vide its letter dated 1st November, 2011 the RGCT requested the NBSA to decide its complaint against the Broadcaster.

4. In the meantime, upon perusal of the materials submitted by the Complainant and the Broadcaster the NBSA's noticed that the Hon'ble Punjab & Haryana High Court was seized of several matters challenging acquisition of land from various parties in a batch of writ petitions pending before that Court. It also transpired that the RGCT was a party to at least one of the writ petitions that was pending before the High Court. Accordingly, NBSA vide letter dated 23.11.2011 decided that RGCT be asked to confirm if the subject matter of its complaint before the NBSA was also pending before any court of law, and to place before the NBSA any relevant material. In reply, vide letter dated 13.12.2011, the CEO of RGCT stated that RGCT is not aware of any proceedings in any court of law pertaining to the subject matter of the complaint to NBSA in which it is a party.

5. Accordingly, hearing was given by the NBSA to the parties on 16.1.2012 at which Mr.K. Parasaran, Senior Advocate appeared on behalf of the RGCT and Mr Nair & Ms Kshipra Jatana appeared on behalf of the broadcasters. At the hearing, the NBSA apprised the complainant that NBSA had learnt that the RGCT had been made a party in matters pending before the Hon'ble High Court of Punjab & Haryana. The Counsel for RGCT was informed that the NBSA had learnt that there were three matters pending before the Hon'ble High Court of Punjab & Haryana challenging the acquisition of land, which was also subject matter of complaint before the NBSA. That in at least one of the petitions pending in the Punjab & Haryana High Court which was public interest litigation filed before that Court, the RGCT had been made a party-respondent; and in the other matters also the RGCT was likely to be heard since the RGCT was evidently an affected/interested party. NBSA accordingly, informed the RGCT Counsel that in accordance with Regulation 7.2 read with Regulation 8.4.3 of the NBSA Regulations, it is not permissible or appropriate for the NBSA to take-up a matter which was *sub judice*; and, therefore, the NBSA was unable to entertain the complaint at that stage. However, the complainant was at liberty to revive the complaint before NBSA, if so advised and found necessary, upon conclusion of proceedings pending in Court. This was rightly accepted by the Counsel.

6. Vide letter dated 17th August, 2012, the RGCT informed the NBSA that the public interest litigation in which the RGCT was party, had been dismissed vide order dated 3rd August, 2012 made by the Punjab & Haryana High Court and the RGCT accordingly requested the NBSA to revive its earlier complaint and to resume the hearing. . Consequently, the NBSA forwarded letter dated 17th August, 2012 received from the complainant to the broadcaster; and vide its e-mail dated 31st August, 2012, the NBSA directed the broadcaster to furnish any further response it may have on the matter. Vide letter dated 5th September, 2012, the broadcaster furnished its further response, essentially reiterating that as long as the views of all involved persons had been telecast, no per se presumption of violation of the NBA Code of Ethics & Broadcasting Standards could be drawn; but at the same time the broadcaster reiterated its offer, in good faith, to telecast additional comments on behalf of the Trust, should any of the Trustees be willing to speak to the broadcaster, in order to bring an amicable end to the dispute.

7. Hearing was given to the parties on 31st October, 2012, at which Mr. Raju Ramachandran, Senior Advocate appearing on behalf of the RGCT made the following principal submissions:
 - That the broadcaster had made no effort to check facts before telecasting the story; which according to the RGCT was judgmental, incorrect, slanted and prejudicial;

- That the telecast of such unverified information had affected the reputation of the RGCT and also of its Trustees, who are leaders of a prominent political party;
- That both channels viz. CNN-IBN and IBN7 had chosen not to seek the RGCT's point of view prior to telecast of the stories;
- That one hour prior to the first telecast on CNN-IBN on 1st August, 2011, the Editor-in-chief of CNN-IBN Mr. Rajdeep Sardesai had sent-out a twitter message tweeting

“did the Congress Government in Haryana violate rules while giving land to Rajiv Gandhi Charitable Trust”.

- On learning from the tweet that the story was to be broadcast at 8 p.m. on the same evening, Dr. Y.P.S. Thorat, CEO of RGCT contacted the broadcaster and conveyed the view point of the Trust via e-mail dated 1st August 2011 regarding the proposed eye hospital being set up,.

However, in spite the clarification the broadcaster continued to telecast the story with sensational headlines for several days without verifying facts. The story was broadcast from 1.8.2011 to 5.8.2011 on both the channels (40 times on CNN IBN & 23 times on IBN7). and the Trust's version was not carried at all, except in one of the broadcasts on CNN IBN & on two days in IBN7 , where also the Channels only carried a truncated version issued by the Trust;

- That in build-up to the story Mr. Rajdeep Sardesai in his various tweets clearly exerted to give an impression to political detractors that the channel was not biased while reporting on any political party and in one of his tweets he said:

“Our Rajiv Gandhi Trust story has created a stir. Surprised some of our twitter friends haven't accused us of bias this time.”

Whereby, it is evident that the story was used to build the image of the channels at the cost of the reputation of the RGCT;

- That in callous disregard for truth and without verifying facts, the channels sensationalized false information, with the sole purpose and effect of destroying the credibility of RGCT and its Trustees;

8. Placing the factual position before the NBSA, the complainant stated:

- That the RGCT had been granted a “lease” of land measuring 5 acres/3 marlas by the Gram Panchayat for setting up a charitable eye hospital, as opposed to the allegations on the Channels which spoke of “acquisition of over 850 acres for the Trust” and “the Trust was given 8 acres of land.”
- Furthermore, the news report on the channels said that the RGCT had got “exemptions” to “acquire” land for setting-up a hospital, as opposed to the fact that the RGCT had not sought any exemption nor had the RGCT acquired any land;
- The channels report further said that 65 petitions filed before the Punjab & Haryana High Court had claimed that the RGCT “swung the deal”, as opposed to

the fact that only 1 petition mentioned the RGCT and even in that petition there was no claim that the RGCT had swung any deal;

- The channels story claimed that the eminent painter Smt. Anjolie Ila Menon had led a farmer's agitation against the lease of the land to the RGCT, as opposed to the fact that Mrs. Menon had led no such agitation but had only petitioned the High Court on acquisition of land being done without consideration for the environment, as evident from the email dated 2nd August 2011 written by Mrs. Anjoile Menon.
9. In response, the principal defence taken by the broadcaster was that it had carried the story on its channels in "public interest", after due diligence and verification of the facts. The broadcaster further said that the tweets by the Editor-in-Chief were personal and did not represent the views of the Channel. The broadcaster also submitted that considering the format of news reporting, the Channels had carried the version of the RGCT to the extent possible in the very first broadcast, both on CNN-IBN and IBN-7 news channels.
 10. However at the hearing on 31st October, 2012 Mr. Vinay Tewari, Managing Editor of CNN-IBN appearing on behalf of the Broadcaster was unable to confirm whether (even) a truncated form of the RGCT's version was carried in subsequent broadcasts or no version was carried at all. The Broadcaster sought further time to verify this aspect, stating that this was a new issue raised by the complainant at the hearing.
 11. Accordingly, further hearing was scheduled for a later date giving opportunity to the parties to submit any additional material that they may wish to place before the NBSA. The matter was then heard on 5th December, 2012.
 12. In view of the opportunity given to the parties to place further material before the NBSA, on 1st November, 2012 the RGCT filed before the NBSA additional documents comprising further particulars, including a tabulated summary of the date, time and duration of the broadcasts, the texts of the tweets made by the Editor-in-Chief as also a copy of e-mail dated 1st August, 2011 addressed by the Trust to the Broadcaster. Along therewith the RGCT also provided other relevant documents evidencing the status of grant of land by the Government of Haryana to the RGCT, copies of certain orders made by the Punjab & Haryana High Court and screen-shots of the news reports carried on the channels. On the other hand, the broadcaster filed a response to the complainant's additional documents so filed vide its letter dated 8th November, 2012 in which notably the Broadcaster stated as under:

"We understand that the channel tried to contacting Dr. Thorat at various occasions on the story before the telecast of the story. It may be difficult for us to comment on the circumstances in which finally we received the Trust's version. However, the pertinent point is that we received it before the story was telecast of the story and we aired Trust's version.

"The Editor has duly cleared the telecast of the Trust's version in the story The said telecasts were viewed by the editorial staff who were satisfied that the clarifications issued by the Trust has been duly aired.

Subsequently, the stories were to be repeated for which the technical team had to simply put them on air. However, the technical team that aired repeat stories somehow misunderstood the editorial directions and did not include the additional portion carrying the clarifications in the subsequent telecast.

This inadvertent error was not realized till it was pointed out by the Trust before this Hon'ble Authority Had we not intended to carry the Trust's version, the same would not have been carried even in the main stories. However, this was not the case, and as explained above, this occurred on account of a bona fide human error of the technical team which we sincerely regret

We sincerely regret the inadvertent error and to close the chapter on a positive note, without prejudice to above, we are willing to telecast a clarification to the effect

(Emphasis Supplied)

13. At the hearing on 5th December, 2012, further submissions were made by both sides. RGCT declined to accept the text of the clarification that the broadcaster had offered to telecast for closure of the matter.
14. After a thorough consideration of the complaint filed by the RGCT, the response filed by the broadcaster by way of its various communications and the documents filed by the RGCT, and on consideration of the rival submissions made by both parties, the NBSA holds as follows:
 - 14.1 Admittedly, 850 acres of land in District Gurgaon, Haryana was not subject matter of allotment to the Trust. Only some 5 acres and 3 marlas of land was leased by the Gram Panchayat to the Trust for 33 years for setting-up a charitable eye hospital;
 - 14.2 Evidently, the RGCT did not 'acquire' 850 acres of land nor did the RGCT get any 'exemption' to acquire any land;
 - 14.3 Of the 65 petitions filed before the Punjab & Haryana High Court, only one petition mentioned the RGCT and even the claim in that petition was not to the effect that the RGCT had "swung the deal" in relation to acquisition or release of any land
 - 14.4 Smt. Anjolie Ila Menon had raised no objection to the lease of land to the RGCT but had only petitioned the High Court on acquisition of land being done without consideration for the environment ;
 - 14.5 The tweets made by the Editor-in-Chief Mr. Rajdeep Sardesai clearly bear-out the sensationalized build-up to the telecast of the story in relation to the Trust on 1st August, 2011 and the subsequent follow-on stories. These tweets also tend to expose the motive for running the story, viz. to improve the image of the channels at the cost of accurate, fair and objective reporting, as also the reputation of the RGCT ;
 - 14.6 It is also evident from the viewing of clippings of the various broadcasts that the entire version given by the RGCT was not duly carried in the subsequent broadcasts; and even the version carried in the very first broadcast was truncated. This was also admitted by the broadcaster at the hearing;
 - 14.7 The broadcasts carried on the channels were therefore clearly biased, tendentious and factually incorrect on various grounds, the most important of which are summarized above;

- 14.8 Even the reportage on proceedings pending in Court, was inaccurate and misleading;
- 14.9 The Broadcaster's contention that tweets made by its Editor-in-Chief were personal in nature is devoid of any merit, since by way of the tweets the Editor-in-Chief was clearly promoting the supposed 'expose' that was scheduled to be telecast on the channels and the twitter handle used was the official twitter handle of the Editor-in-Chief of CNN-IBN;
- 14.10 The Broadcaster's response on the issue of whether it sought the Trust's version (... *we understand that the channel tried to contact ...*) itself shows that no such effort was made and even after the RGCT sent its version by e-mail dated 1st August, 2011, no effort was made by the Broadcaster to reflect such version in its entirety ; and in fact in subsequent broadcasts, the RGCT's version was not carried at all. The Broadcaster's reply that the omission to carry the RGCT's version was inadvertent or unintentional arising from the technical team misunderstanding editorial directions is not acceptable.
15. The NBSA observes that a broadcast has to be judged on the basis of the overall impression, perception and impact that a viewer gets on a plain viewing of the broadcast; and not on the basis of some elaborate and arcane submissions made subsequently before a jury. In the present case, from a plain viewing of the broadcast made on the channels, it is evident that an impression was deliberately created that the RGCT was involved in a dubious deal and received illegal favours from the Government of Haryana in relation to the allotment of 850 acres of land to the RGCT by contravention of law; and that illegitimate favours were bestowed on the RGCT by reason of the prominent position of the Trustees in the county's political set-up. It is inevitable that such reportage would cause serious prejudice and harm to the reputation of the RGCT and to its Trustees. There was no justification for such reportage.
16. Accordingly, the NBSA is of the view that by telecasting the series of broadcasts relating to the Rajiv Gandhi Charitable Trust as aforesaid, M/s. IBN18 Broadcast Limited committed egregious violation of the NBA Code of Ethics & Broadcasting Standards, especially guidelines relating to accuracy, impartiality, neutrality, requirement of due diligence and verification of facts prior to telecast, as also the need to carry the version of the person affected. The news reports in question are factually incorrect reportage of the extent and status of land that the RGCT was holding. The reportage also misrepresented proceedings in several writ petitions pending before the Punjab & Haryana High Court. The reportage smacks of clear bias and lack of objectivity. The reportage is an example of sensationalization with the purpose of promoting and improving the image of the channels, which is unethical journalism.
17. The NBSA, accordingly, directs that the Broadcaster be visited with the following consequences:
- (a) The Broadcasters be directed to carry an apology by running the following text (static) on full screen in large font size with voice over (in slow speed) expressing regret for the said telecast on their channels for 5 consecutive days at 9 pm sharp on 24.12.2012, 25.12.2012, 26.12.2012, 27.12.2012 & 28.12.2012 respectively (IBN7 will carry the apology in Hindi):

“CNN IBN sincerely regrets that the story broadcast on 1st August 2011 and subsequently with regard to the land allotted to Rajiv Gandhi Charitable Trust at Village Ullawas, District Gurgaon, presented a wrong and misleading picture. CNN IBN regrets that the version of Rajiv Gandhi Charitable Trust was not sought before airing the story. CNN IBN regrets that they have not played Rajiv Charitable Trust’s version in all the follow on stories telecast on their channels in the month of August 2011. CNN IBN deeply regrets and apologise for the harm caused to the reputation of the Trust and its Trustees”.

“आईबीएन-7 इस बात के लिए गहरा खेद व्यक्त करता है कि राजीव गाँधी चैरिटेबल ट्रस्ट को गाँव उल्लावास, जिला गुडगाँव में आवंटित की गयी भूमि के बारे में 1 अगस्त 2011 और उसके बाद प्रसारित खबरों में इस मामले की ग़लत और भ्रामक तसवीर पेश की गयी। आईबीएन-7 को खेद है कि इस खबर को दिखाने के पहले राजीव गाँधी चैरिटेबल ट्रस्ट का पक्ष नहीं प्राप्त किया गया। आईबीएन-7 को खेद है कि अगस्त 2011 में इस मामले में प्रसारित की गयी 'फ़ालो-अप' खबरों में भी राजीव गाँधी चैरिटेबल ट्रस्ट का पक्ष नहीं रखा गया। इससे ट्रस्ट और ट्रस्टियों की प्रतिष्ठा को पहुँची क्षति के लिए आईबीएन-7 गहरा खेद व्यक्त करता है और क्षमाप्रार्थी है”

(b) The Broadcaster is issued a “censure” by the NBSA for wilful violation of NBA Code of Ethics & Broadcasting Standards and norms of ethical journalism;

(c) A fine of Rs. One lakh is imposed upon the broadcaster, to be paid to NBA within one week of receipt of this order.

18. The NBSA further directs the NBA:

a) To send a copy of this order to the complainant and the broadcaster;

b) To circulate this order to all Members & Editors of NBA.

c) The NBA to release the Order to the PTI/UNI and to other national dailies.

d) NBA to also host a summary of this order on its website and to include such summary in its next Annual Report.

19. Proof of compliance of telecast of the apology be submitted to News Broadcasters Association on compact disc within 7 days of telecasts.

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

Place : New Delhi
Dated : 20/12/2012