

By Hand

May 8, 2012

Mr. Uday Kumar Varma
Secretary
Ministry of Information & Broadcasting
Govt. of India
Room No. 655, A-Wing, 6th Floor, Shastri Bhawan,
New Delhi – 110 001

Dear Sir,

Re: Complaint dated 8.11.11, filed by Associated Broadcasting Co. Pvt. Ltd. against Sakshi TV (both members of NBA) regarding a news report on Sakshi TV on 22.10.11 and 23.10.11.

Attached please find copy of letter dated 7.5.12, along with Order dated 27.3.12, passed by the NBSA, which are self-explanatory.

This is for your information and necessary action please.

Thanking you,

Yours faithfully,



Annie Joseph

For & on behalf of NBSA

*CC : Mr. Rajiv Takru, Additional Secretary & Chairperson IMC
Ms. Supriya Sahu, Joint Secretary (BC), MIB
Mr. Amar Nath Singh, Under Secretary (BC.II), MIB
Justice (Retd.) J.S. Verma, Chairperson, NBSA*

Encl: As above

Speed Post/ Email

May 7, 2012

Ms. A. Padmavathi Legal Co-ordinator M/s Associated Broadcasting Company Pvt. Ltd. Plot No.97, Road No.3, Banjara Hills, Hyderabad – 500 034.	Mr. Arvind Yadav Input Editor Indira Television Ltd. 6-3-248/3,Road No.1Banjara Hills, Hyderabad - 500034
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Dear Madam/Sir,

Re: Complaint dated 8.11.11, filed by Associated Broadcasting Co. Pvt. Ltd. against Sakshi TV (both members of NBA) regarding a news report on Sakshi TV on 22.10.11 and 23.10.11.

As you are aware, vide Order dated 27.3.12, both the broadcasters were requested to run an apology on the respective channels on 31.3.12, at 9.00 p.m. news bulletin, the text of which was given in the Order and both the channels were requested to send proof of compliance of the said Order by submitting a Compact Disc containing the telecast of the apology, with particulars of the time and date of the telecast, within one week of the broadcast of such apology.

Both the broadcasters did not run the apology on the above mentioned date. However, both chose to write to the Authority to review its decision, which was considered by the Chairperson, NBSA.

Both the broadcasters were informed that the matter had been finally decided after giving full opportunity to both the parties to produce whatever material they relied on. Two hearings were convened in the matter. Besides, no fresh material, relevant to the case, had been disclosed in their representations seeking review. Accordingly there was no occasion to reopen the case or provide any further opportunity to either side to produce any more evidence or material. The application was disposed off accordingly. Since there was no ground to reopen the case, no further correspondence from anyone would be entertained hereafter. The parties were required to make the compliance as already directed by the Authority.

The above issue was considered by the Authority at its meeting held on 18.4.12, and the Authority decided as under:

The Authority noted the response received from both the broadcasters post receipt of the Order passed by the Authority and also noted that both the broadcasters had not aired the apology as directed by the Authority.

The Authority noted that the communication received from Associated Broadcasting Co. Pvt. Ltd. was offensive as it was casting aspersions on the Authority and was unacceptable .The

broadcaster was recalcitrant despite the fact that several complaints against it have been received from viewers, relating to violations of the Code of Ethics and Guidelines issued from time to time by the NBSA. Even the MIB has forwarded complaints of violations by this broadcaster, which have been considered and decided by the Authority against it. The Authority noted that the provisions contained in the Amended Policy Guidelines for Uplinking & Downlinking form India dated 5.12.2012 issued by the MIB regarding "Renewal of existing permissions" stated as follows:

10. RENEWAL OF EXISTING PERMISSIONS

10.2 Renewal of permission will be considered for a period of 10 years at a time, subject to the condition that the channel should not have been found guilty of violating the terms and conditions of permission including violations of the programme and advertisement code on five occasions or more. What would constitute a violation would be determined in consultation with the established self-regulating mechanisms.

and therefore the Authority decided to recommend to the MIB that this violation by the broadcaster and its refusal to comply with the directions given by the NBSA be treated as a violation in this behalf.

Since as of 18-04-2012, there was no response by Sakshi TV to report compliance of the directives issued, the Authority decided that the same be awaited for another 10 days failing which the same action would be taken against it.

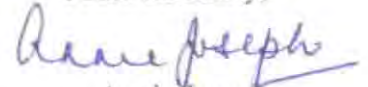
On 18-04-2012 after the conclusion of the NBSA meeting, at about 7:21 pm an e-mail communication was received from Sakshi TV also declining to comply with the NBSA order dated 27-03-2012 citing non-compliance by TV-9 as the reason.

Since there has been no compliance of the NBSA order by Sakshi TV either, as per the decision of the Authority, the NBSA is writing to the Ministry of Information & Broadcasting recommending that this violation by the broadcaster and its refusal to comply with the directions given by the NBSA be treated as a violation in this behalf, equally for Sakshi TV as for TV-9.

A communication in this regard along with the copy of the Order be sent to the Secretary MIB and other concerned officials in the MIB.

Thanking you,

Yours faithfully,



Annie Joseph

For & on behalf of NBSA

CC Mr. Uday Kumar Varma, Secretary, MIB
Mr Rajiv Takru, Additional Secretary & Chairperson IMC
Ms. Supriya Sahu, Joint Secretary (BC), MIB
Mr. Amar Nath Singh, Under Secretary (BC.II), MIB

NEWS BROADCASTING STANDARDS AUTHORITY**Complaint No.11 of 2011**

Re: Complaint dated November 8, 2011 filed by M/s. Associated Broadcasting Company Pvt. Ltd. (TV-9) against M/s. Indira Television Ltd. (Sakshi TV) regarding news-reports broadcast on Sakshi TV on October 22, 2011 and October 23, 2011.

ORDER

1. In a first-of-its-kind invocation of the dispute redressal mechanism of the News Broadcasters Association (NBA), one of the NBA members M/s. Associated Broadcasting Company Pvt. Ltd. (owners of “TV9” news-channel) has filed a complaint against another NBA member M/s. Indira Television Ltd. (owners of “Sakshi TV” news-channel) alleging violation of the Code of Ethics & Broadcasting Standards and Specific Guidelines on November 8, 2011 in relation to the telecast of certain news-reports on Sakshi TV on October 22, 2011 and October 23, 2011.
2. The essence of the allegation is that on October 22, 2011 and October 23, 2011 certain telecasts were carried on Sakshi TV whereby it was stated that the Chief Executive Officer (CEO) of the Complainant – Shri Ravi Prakash – had amassed ill-begotten wealth, which was the reason for his meteoric rise from being an employee of a magazine earning Rs. 3,000/- per month in 1995-96 to a wealthy television channel owner who also runs businesses in Africa and Bangalore and owns lands in Hyderabad and Bangalore. The so-called news-reports telecast said that TV9 had received funding from Shri Srinu Raju who (later) had exited Satyam Computers Ltd. around the time when Satyam Computers was scam-ridden; implying essentially that Shri Ravi Prakash had received undeserved successes by illicit means and that TV9 have been funded by people of illegal and undisclosed sources of income.
3. According to the Complainant, the news-reports in question were repeated at least 30 times over a period of two days, with the intention of sensationalizing the matter; and this had caused immense damage to the fair name and reputation of the Complainant and its CEO.
4. Most importantly, the Complainant alleged that the reason for the Respondent having run this tirade against the Complainant’s CEO was to browbeat and silence TV9, since TV9 had earlier-on telecast news-reports on the raids conducted by the Central Bureau of Investigation (CBI) at the residence of Shri Jaganmohan Reddy, prominent politician and National President of the YSR Congress Party, who also happens to be the promoter and former-CEO of Sakshi TV. It was the Complainant’s position that reportage of the CBI raids on Shri Jaganmohan Reddy was done as part of TV9’s normal and usual discharge of their journalistic duty to report in the newsworthy matters; and that Shri Jaganmohan Reddy was a prominent public figure and legitimate subject of public interest, being a top political personality of the State of Andhra Pradesh and son of former Chief Minister late Y.S Rajsekhar Reddy. Furthermore, the Complainant submitted that its news-reports in relation to Shri Jaganmohan Reddy were based upon information derived from the First Information

Report (FIR) and other material available in the public domain relating to the CBI raids upon him.

5. It may be mentioned that from the record before the NBSA, it appears that the Complainant had also issued legal notices dated 03.11.2011 and 04.11.2011 to the Respondent inter-alia claiming damages of Rs. 100 crores; and the Respondent had replied to such legal notices vide communication dated 22.11.2011 . From a perusal of legal notice dated 03.11.2011 issued by the Complainant, it appears that a Division Bench of the High Court of Andhra Pradesh had directed the CBI to register a case and investigate the allegations of corruption inter-alia against Shri Jaganmohan Reddy ; and it was pursuant to such directions of the Andhra Pradesh High Court that action had been taken by the CBI against the said person, who also happened to be the promoter of Sakshi TV.
6. However, from the material on record and position taken by parties before the NBSA, it appears that there is nothing pending in any Court of law or other forum or authority in relation to the content related complaint filed by the Complainant against the Respondent before the NBSA; and therefore it was well within the ambit of the NBSA Regulations to entertain and decide the complaint.
7. Upon a preliminary consideration of complaint dated November 8, 2011 filed by the Complainant, vide letter dated 30.11.2011 the NBSA called upon the Respondent to submit certain documents for its consideration. Subsequently, both parties were called for a hearing at the meeting of the NBSA held on February 20, 2012. Since the telecasts in question were in Telugu, in order to facilitate understanding of the matter, after a brief hearing held on February 20, 2012, the NBSA directed both parties to furnish to it an agreed English translation of the transcript of the concerned telecasts for the perusal of the NBSA. Both parties were called upon to appear again before the NBSA for a further hearing on March 20, 2012.
8. At the hearing conducted before the NBSA on March 20, 2012, the Complainant was represented by Shri U.U. Lalit, Senior Advocate assisted by Ms. Pratibha Singh, Mr. Sangram Singh & Ms. Surbhi Mehta, Advocates alongwith Ms. Padmavathi Apalla, Legal Coordinator, of the Complainant broadcaster; whereas the Respondent was represented by Shri Jaideep Gupta, Senior Advocate assisted by Shri Gopal Sankaranarayanan and Shri P. Subash, Advocates.
9. The NBSA heard the oral submissions of both sides. The NBSA also perused Complaint dated November 8, 2011, the agreed English translation of the telecasts submitted by both the parties, the response given by both the parties and the relevant documents.
10. The following extracts of Written Submissions dated March 8, 2012 are significant :
 - “6) *Upon such deliberate false news being telecast, without reference to the truth concerning Lotus Pond and the alleged amenities contained therein, including insinuations about the investments in Sakshi TV, one of the party members of YSR Congress Party and Sakshi TV, which channel has been continuously been referred to as “the guilty beneficiary of the ill-gotten assets of Sri Jagan*

Mohan Reddy, all through”, demanded TV9 to prove their story of Lotus Pond Residence having a

- a) Foreign bar with foreign liquor;*
- b) Escalator;*
- c) 70 rooms; and*
- d) Swimming Pool”.*

“11) *In response thereto, Sakshi telecast the story on 23.10.2011, referring to the remarks made by TV9 as regards the institutional investments in the said Company, so far as I-Labs Ventures and Chintalapati Holdings, Sakshi TV narrated the course of events which led to Srini Raju exiting from Satyam Computers in the nick of time, while having been aware of the difficulties in Satyam Group, taking advantage of the price of the shares of Satyam at the relevant point in time without discharging his duties towards the shareholders of Satyam and as to how from thereon, he entered into media industry and set up companies, and established assets exceeding hundreds of crores. Sakshi TV was of the view the Srini Raju’s role in the Satyam Scam had not been looked into by CBI and TV9 is one of the creations of Srini Rajus’ wealth, after taking care that he would not be affected by the scam in Satyam”.*

“18) *Since TV9 has insinuated repeatedly in their programmes, including the programme on coverage of CBI raid on Lotus Pond, investments in group companies, Sakshi TV responded, with material in its possession, as regards the nature of investments in TV9 and also about its CEO, on the basis of information available with Sakshi TV”.*

(Emphasis Supplied)

11. It may be mentioned that the above extracts clearly indicate that Sakshi TV has admitted that the impugned telecasts against Shri Ravi Prakash of TV9 on Sakshi TV were in “response” to the telecasts made on TV9 about Shri Jaganmohan Reddy.
12. Even though the complaint under consideration is only of TV9 against Sakshi TV, the latter made a grievance against the complainant TV 9 of inaccuracy in the facts relating to the CBI raids conducted at the residence of Shri Jaganmohan Reddy.
13. The respondent Sakshi TV also contended that it was legitimate for it to report personal details of Shri Ravi Prakash of TV 9, including the accusation of wealth by him since Shri Ravi Prakash as the CEO of TV 9 was as much a ‘ public figure’ as Shri Jaganmohan Reddy. In short, it was claimed on behalf of Sakshi TV that the right to privacy of Shri Ravi Prakash as CEO of a news channel was no more than that of the political figure, Shri Jaganmohan Reddy.
14. In reply Shri U.U. Lalit appearing for TV 9 controverted this argument of Shri Jaideep Gupta, Senior Advocate, on behalf of Sakshi TV asserting that the status of Shri Jaganmohan Reddy as an important political leader exposed him to a greater public scrutiny as compared to a CEO of a news channel.
15. Shri U.U. Lalit, Senior Advocate contended that Sakshi TV had, therefore, violated the following Guidelines:

1) Impartiality and objectivity in reporting:

Accuracy is at the heart of the news television business. Viewers of 24 hour news channels expect speed, but it is the responsibility of TV news channels to keep accuracy, and balance, as precedence over speed. If despite this there are errors, channels should be transparent about them. Errors must be corrected promptly and clearly, whether in the use of pictures, a news report, a caption, a graphic or a script. Channels should also strive not to broadcast anything which is obviously defamatory or libelous. Truth will be a defense in all cases where a larger public interest is involved, and in even these cases, equal opportunities will be provided for individuals involved to present their point of view. This also applies in cases where television channels report on those holding public office, though by virtue of doing so, no person can claim immunity from scrutiny from or criticism by news channels.

2) Ensuring neutrality:

TV News channels must provide for neutrality by offering equality for all affected parties, players and actors in any dispute or conflict to present their point of view. Though neutrality does not always come down to giving equal space to all sides (news channels shall strive to give main view points of the main parties) news channels must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt.

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. However, it is also understood that the pursuit of the truth and the news is not possible through the predetermined principle of prior permission; hence door stepping individuals or authorities for the purpose of newsgathering may be used only in the larger purpose of public interest. Further, in the case of minors, in any broadcast that intrudes on their privacy, the channel should attempt, where possible, to seek the consent of the parent or legal guardian. However, the defense of the premise of privacy cannot be misconstrued as the denial of access, and this applies to all individuals, including those in the public eye and public personalities. It does however apply in its entirety, as per the provisions mentioned above, to their children and kin who are minors.

Shri U.U. Lalit contended that the impugned act of Sakshi TV amounted to misuse of the powerful medium of a news channel to brow beat and pressurize TV 9 into silence by unjustifiably attacking its CEO Shri Ravi Prakash.

- 16 It may be clarified that the scope of this matter is confined to the complaint of TV 9 against Sakshi TV, there being no complaint of Sakshi TV requiring consideration by the NBSA. The response of Sakshi TV in this matter is therefore relevant only to the extent it has a bearing as the defence to the complaint of TV 9 and no more.

17. Upon consideration of the matter, including the oral submissions of both the learned Senior Counsel, the NBSA concludes as follows:-
- 17.1 To the extent that TV9's reportage on the CBI raids on Shri Jaganmohan Reddy were based upon verified information derived from FIR and other investigations conducted by the CBI, telecasts dated October 20, 2011 and October 21, 2011 relating to Shri Jaganmohan Reddy made on TV9, they can not be faulted;
- 17.2 However it appears, that TV9 failed to do due diligence to verify from Shri Jaganmohan Reddy about the existence of a "foreign bar", foreign liquor, escalator or cinema hall, swimming pool and other such matters, which were also reported as "facts" as part of telecasts dated October 20, 2011 and October 21, 2011. To this extent TV9 was in breach of the tenets of fair and accurate reporting in respect of Shri Jaganmohan Reddy ;
- 17.3 Being a prominent politician, Shri Jaganmohan Reddy is a "public figure" and a-fortiori a perfectly legitimate subject of reportage by TV9. Being a public figure the 'right to privacy' of Shri Jaganmohan Reddy does get diluted as compared to that of an ordinary person who is not a public figure. It is settled law that even defamatory falsehood published about a person in public life is actionable only on proof of 'malice' or 'reckless disregard for truth'. None of these actionable ingredients have been proved by Sakshi TV in the reportage made by TV 9 relating to Shri Jaganmohan Reddy.
- 17.4 As for the reportage made by Sakshi TV in relation to Shri Ravi Prakash, CEO of TV9 is not at par with Shri Jaganmohan Reddy as a public figure and, therefore, reportage relating to Shri Ravi Prakash made by Sakshi TV is no justification as a defence to this complaint. As appearing from the written submissions of Sakshi TV this was a clear counter-attack on TV 9 to silence it in reporting the raids at the premises of Shri Jaganmohan Reddy.
18. Accordingly, the complaint of TV 9 is found justified to the extent indicated above. However, it was remiss in lacking due diligence before reporting the above unverified facts, the correctness of which has been disputed.
19. In conclusion, the NBSA holds: Sakshi TV is, therefore, in breach of NBA Code of Ethics and Guidelines particularly the provisions relating to accuracy, impartiality, objectivity, neutrality and privacy in reporting as indicated above. TV 9 too has failed to perform due diligence before reporting the unverified above damaging facts, which have not been proved to be correct. To this extent TV 9 has also committed breach of the NBA Code of Ethics and Regulations issued from time to time. The net result is that both the broadcasters are accountable even though the lapse of Sakshi TV is greater.
20. It follows that both the broadcasters, namely Associated Broadcasting Company Pvt. Ltd. (TV-9) against M/s. Indira Television Ltd. (Sakshi TV) have failed in the manner indicated above and therefore it is hereby directed that both the broadcasters do the following :

- 20.1 To telecast 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 telecasts on their channels Sakshi TV & TV 9 prior to the commencement of the telecast of the **9 p.m news** bulletin on 31.3.2012, stating the following (**text also to be translated in Telugu**):

“Sakshi TV apologizes for the story run several times relating to Shri Ravi Prakash, CEO of TV 9 on October 22, 2011 and October 23, 2011 since the same was unverified, although not intentional. Any harm caused to Shri Ravi Prakash & TV 9 is deeply regretted.”

“TV 9 apologizes for the story run several times relating to Shri Jagannmohan Reddy, President, YSR Congress Party on October 20, 2011 and October 21, 2011 to the extent it related to facts not covered by the FIR against him leading to the raids on his premises, since the same was unverified, although not intentional. Any harm caused to Shri Jagannmohan Reddy & Sakshi TV to this extent is deeply regretted.”

- 20.2 To submit proof of compliance of this Order by the said Broadcasters to the NBSA by submitting a Compact Disc containing the telecast of the apology, with particulars of the time and date of the telecast, within one week of the broadcast of such apology.

21. The NBSA further directs the NBA :

- (a) To send a copy of this Order to both the broadcasters for necessary compliance ;
- (b) To circulate this Order to all Members & Editors of NBA for information ;
- (c) To also host a summary of these proceedings on its website and to include such summary in its next Annual Report.

Sd/-

Justice J S Verma (Retd.)
Chairperson

Place : New Delhi
Dated : March 27, 2012