

News Broadcasting Standards Authority
Order No. 37 (2016)

Order of NBSA on the complaints against a news item telecast on ETV Uttar Pradesh / Uttarakhand on 8.1.2016 & 14.1.2016 regarding construction of a mall in Bulandshahar by the Vice Chairman & Assistant Engineer, Bulandshahar Development Authority

The complaints dated 28.1.2016 and 16.2.2016 by the Vice-Chairman (Mr. Shailendra Chaudhary) and the complaints dated 28.1.2016 and 16.2.2016 of the Assistant Engineer (Mr. M.L. Mitra) of Bulandshahar Development Authority (for short 'BDA' or 'the Authority') relate to the broadcast on ETV UP regarding the controversy surrounding the construction of MMR Grand Mall, Bulandshahar ("Mall"). The said news story reported that initially when the building plan was being approved, the building was approved for two adjacent plots, but the completion certificate was issued by the BDA for only one plot of land (combining both plots); and that though the parking lot of the Mall was not constructed as per the approved building plan, the Mall had been granted a completion certificate. The report has also alleged misdeeds and irregularities by the Vice-Chairman (and Assistant Engineer) of Bulandshahar Development Authority, by naming them.

The complainants alleged that the broadcasts were objectionable and defamatory; that the report was one sided, inaccurate and incorrect and made without verification of facts and without giving an opportunity to them to give their versions/views on the matter.

In its response dated 11.2.2016, the broadcaster denied all the allegations levelled against its channel. The broadcaster stated that the news story had been aired based on the information received from their sources; that the news reporter tried to contact the complainants for their version and comments on the story but the same was never provided to them; and that the news programme was made in good faith to keep the viewers informed about issues affecting the public at large and was part of the routine news coverage. Without prejudice to their submissions, the channel stated that it was ready to telecast any clarifications regarding the news story, given by complainants.

NBSA considered the complaints and the response of the broadcaster and called both parties for a hearing on 11.3.2016. At the hearing on 11.3.2016 the following were present:

On behalf of Complainants:

1. Mr. Shailendra Chaudhary, Vice Chairman, BDA
2. Mr. M.L. Mitra, Assistant Engineer, BDA
with Mr. Sanjay Vashisth, Draftsman, BDA
3. Mr. Sunil Kumar Sharma, Counsel for complainants

Panorama Television P Ltd. [ETV Uttar Pradesh/Uttarakhand]:

1. Mr. Brajesh Misra, Editor ETV UP
2. Mr. Narendra Pratap, Reporter, ETV UP
3. Ms. Aditi Mittal, Legal Manager

Mr Shailendra Chaudhary (Vice-Chairman BDA) stated that the local reporter has telecast news on ETV channel on 8.1.2016 in which photo of one Mr. Yadav Singh was shown along with his photo and photo of the Assistant Engineer Mr. M L Mitra. He drew the attention of the NBSA to the following tag lines (translated in English), which were run on 8.1.2016 and 14.1.2016 which, according to him, were baseless, false and defamatory :

Date- 8. 1. 2016

- Mall of black money
- Misdeeds / handiwork of Vice President of Bulandshahr Development Authority
- A dip in the black money of Yadav Singh
- Clean Chit given to The MMR Mall voluntarily
- Mall comes under preview of CBI inquiry
- Parking in the basement of Mall according to maps in the year 2011 and 2013.
- Stores and illegal constructions were constructed at the space provided for parking.
- Mohan Lal Mitra is old friend and is same caste of Yadav Singh.
- In the process of amalgamation, Covered parking place in basement according to map
- Corrupt official of Development Authority, Shailendra Chaudhary messed 11 crore loss to the exchequer-State Government.
- An influential woman IAS Officer played a crucial role in the deal of crores.

Date : 14.01.2016

- Big game plan of VC of Authority and AE ML Mitra
- Damage of crores done by MMR Mall
- In a conspiracy Government lost in crores.
- Under the guise of Mall, conspiracy of loot of revenue was planted.
- Mall of Black Money
- In NOC, plot of the Mall shown as one
- Damage of crores by MMR Mall
- In completion certificate released by VC of Authority, both plots were shown separately.
- Conspiracy was planted for damaging in tune of crores of revenue to the government.
- NOC of Fire Department was received on 13th January, 2015, two months later than completion of building of Mall.
- Completion of both plots were shown separately.
- Damages in tune of crores were made to government by planting a conspiracy.
- Under the guise of Mall, Conspiracy of loot of revenue was planted.
- No completion certificate was issued on Parking.
- If Mall was constructed on single plot, then there was no loss of revenue.
- Had two plots were been adjusted in one plot, then new plot would have been corner one.
- Abolition of car parking was against public interest.
- To hide its own misdeeds, discloser was made
- Illegal construction was ignored which is a big damage to the revenue of government etc.

Mr Shailendra Chaudhary also stated that based on the false reports aired on the channel, there were enquiries by the competent authorities, but no adverse orders were passed against him. He pointed out that the broadcaster has not named the “influential woman IAS officer” referred to in its broadcasts. He also

pointed out that no other news channels had made any such report against him or his colleagues and the fact that this channel alone did so, showed ulterior motives.

Mr M. L. Mitra, the other complainant stated that the subject matter of the news report was the construction of the MMR Mall; that as per the records available with the Bulandshahar Development Authority, two plots of land (H P -1 and H P -2) measuring 4312.50 Sq.M and 4300.27 Sq.M respectively were auctioned as part of the Authority's Yamunapuram residential plan on 27.3.2006 with a reserve price of Rs 5,000 per sq.m; that at the said auction, M/s. Tarun Buildwell Pvt Ltd made the highest bid of Rs 7710 per sq.m for plot no. H P-1 and M/s. V K International Pvt Ltd made the highest bid of Rs 6,730 per sq.m for a Plot No. H P-2; that the deeds of sale in regard to the two plots were executed by the Authority on 31.03.2009 and 26.03.2009; that subsequently, on 29.09.2009, M/s. Shaurya Wake Face Pvt Ltd bought the two plots of land and the Authority effected the mutation of the two plots on 15.12.2009 and 14.12.2008 respectively in favour of the plot owner M/s. Shaurya Wake Face Pvt Ltd. (Director Shri Mohit Raghav); that thereafter M/s. Shaurya Wake Face Pvt Ltd submitted to the Authority a map (no. 219 / 2009) for commercial construction on plot no. H P-1 and another map (no. 220 / 2009) for the construction of a multiplex on plot no. H P-2, which were approved in accordance with the rules on 20.01.2011; and that the approved maps were presented before the Authority for the approval of construction work on the two plots, and the certificates for the same were issued on 26.03.2015. He stated that there were two separate constructions in the two plots (Commercial & Multiplex) with separate entrances, the only thing common was a canopy between both the buildings. Mr Mitra also stated that the channel's reporter was invited several times so as to explain the factual position, but he did not come on the date and time called; and that he had met the reporter on two occasions and had requested him to seek an appointment with the Vice- Chairman for any clarifications. He stated that the allegation that Mr Yadav Singh, who has been arrested on corruption charges by the CBI, was related to him, was not true.

Mr Sunil Kumar Sharma, Counsel for complainants, stated that such baseless, fictitious and unfounded allegations were telecast continuously on the channel on two days to malign the reputation of his clients, without giving an opportunity to them. Mr Chaudhary stated that this channel had in the past also run such defamatory stories; that the Reporter (Mr. Narendra Pratap) had been filing RTI applications only with the intention of harassing and extorting money; and that in the RTI applications/complaints, the reporter gave his mobile number but he used the post-paid number of the then Superintendent of Police, Shri Ajay

Sahani. The counsel stated that as his demand for money was not met, the complainants were subjected to unverified news reports on the channel, which has severally damaged their reputation and credibility. He contended that the broadcaster had made irresponsible and defamatory allegations against him and Mr. M.L. Mitra without any material; and that there were no violations by BDA in granting the permissions/approvals and the mall was built after obtaining the required clearances.

The broadcaster denied the allegations of malice or ulterior motive and contended that the broadcasts were in public interest and that the news stories were based on ample documentary evidence; that based on their news reports, enquiries were conducted; that when the reporter met Mr Mitra, he would say that he was not authorised to give information and the reporter should seek the information from the Vice-Chairman; that the Vice-Chairman was politically connected and hence no action was taken against him despite enquiry; and that he had stalled his transfers twice, by using his political connections.

Both the parties claimed that they had enough documentary evidence and they sought a month's time to produce the same. They agreed to submit the documents, which were available with them, within one month for consideration by NBSA. In pursuance of it, the complainants and the broadcaster had submitted their written submissions.

NBSA considered the written submissions of both the parties. As the questions whether there were any violation of the building rules or whether there were any irregularities or illegalities in the grant of permissions and approvals by BDA in regard to the constructions or whether there was any illegal demand or extortion against the channel's reporter, were out its purview, NBSA decided to consider only the question whether there was any violation of Broadcasting Standards, Regulations and Guidelines of NBA/ NBSA.

On consideration, NBSA found that the broadcaster had not given sufficient opportunity to the Vice-Chairman BDA & Mr M. L. Mitra, Assistant Engineer BDA, to present their views/explanations in regard to the charges against them. The broadcaster, no doubt, has submitted call detail records of the reporter's mobile phone (No. 9412592107) in support of its contention that the reporter had tried contacting Mr. M.L. Mitra thrice, that is once on 20.12.2015 and twice on 21.12.2015 before the broadcast. The very short duration of these calls to mobile No. 8191002901 stated to be that of Mr. Mitra and the absence of any attempt to contact Mr. Shailendra Chaudhary and absence of any material like

letters/e-mails addressed to the complainants, demonstrated that the reporter did not make sufficient effort to get their views before telecasting the report of alleged corruption and loss of revenue to the exchequer. NBSA also found that there was no basis for use of the sensational and unwarranted tag lines broadcast on 8.1.2016 and 14.1.2016. The English translations of the more serious unsupported tag-lines are :

In the broadcast made on 8.01.2016:

Misdeeds of Vice-President of Bulandshahr Development Authority.

Dip in the black money income of Yadav Singh.

Mohan Lal Mitra is old friend and is same caste of Yadav Singh.

Corrupt official of Development Authority, Shailendra Chaudhary caused 11 crore loss to the State exchequer .

An influential woman IAS Officer played a crucial role in the deal of crores.

In the broadcast made on 14.01.2016:

Big game plan of VC of Authority and AE M.L Mitra. In the conspiracy, Government lost in crores.

Under the guise of Mall, conspiracy of loot of revenue was planted.

In completion certificate issued by VC of Authority, both plots were shown separately.

Conspiracy was planted for causing loss of crores of revenue to the government.

Conspiracy to cause loss to the tune of crores to the government.

Under the guise of Mall, conspiracy batched to cause loss to the government revenue.

NBSA found that the broadcaster had breached the principles of self-regulation relating to “impartiality & objectivity in reporting and ensuring neutrality”, as also the regulations that “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” and “news channels must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt”. There is also violation of the Advisory on the use of Adjectives and Hyperbole dated 8.5.2012, which requires the news channels to desist “from using adjectives, which colour verified facts/news with personal opinions of journalists’ and the caution to the channels that they should bear in mind that

“news media have no claim to any special privilege or licence to malign any person or organisation”.

NBSA after deliberations decided that:

(1) The channel be warned that any future transgression would be viewed seriously.

(2) The broadcaster be directed to provide an opportunity to each of the complainants, to give their versions on the allegations which were telecast on 8.1.2016 and 14.1.2016 on ETV Uttar Pradesh / Uttarakhand.

(3) The broadcaster shall by a written notice/call letter give the complainants Mr. Shailendra Chaudhary, Vice Chairman, BDA and Mr. M.L. Mitra, Assistant Engineer, BDA, the opportunity to give their version for being telecast for a period of 3 minutes. The version offered by the complainants shall be restricted only to the clarifications they wish to offer in regard to the report. The complainants shall not use such opportunity, to make any remark against the broadcaster or the reporter. The complainants shall be given 15 days time from the date of broadcaster’s written notice to give their version. The broadcaster will send the letter to Mr. Shailendra Chaudhary, Vice Chairman, BDA and Mr. M.L. Mitra, Assistant Engineer, BDA, within three days of receipt of the Order both by email & registered mode of delivery requesting for their availability regarding telecast of their versions.

(4) The broadcaster shall, prior to the 8 PM news on August 9, 2016 , air the versions of Mr. Shailendra Chaudhary, Vice Chairman, BDA and Mr. M.L. Mitra, Assistant Engineer, BDA. Prior to carrying the version of the complainants, it shall state on full screen in large font size with a clearly audible voice-over (in slow speed) **(To be translated in Hindi)**: “The versions of Mr. Shailendra Chaudhary, Vice Chairman, BDA and Mr. M.L. Mitra, Assistant Engineer, BDA were not taken in a news item telecast on ETV Uttar Pradesh / Uttarakhand on 8.1.2016 & 14.1.2016 regarding construction of a mall in Bulandshahar. Since the failure to give an opportunity to Mr. Shailendra Chaudhary, Vice Chairman, BDA and Mr. M.L. Mitra, Assistant Engineer, BDA was in breach of the principles of self-regulation relating to “impartiality & objectivity in reporting and ensuring neutrality”, we are carrying their unedited versions following this apology”.

(5) The video of the said programme, if hosted, on the website of ETV Uttar Pradesh / Uttarakhand or any other links should be removed immediately and confirmed to NBSA.

(6) The broadcaster shall submit a compact disc containing the telecast with particulars of the date and time of the telecast, within one week of telecast, as proof of compliance. After such CD is submitted by the broadcaster, the matter will be closed.

It is clarified that the finding of NBSA, in pursuance of this decision, are only in the context of examination by NBSA as to whether there was any violation of Broadcasting Standards and Guidelines and shall not be construed as a finding against, or admission by, the broadcaster, of any other wrong-doing giving rise to a civil or criminal liability.

NBSA further directs the NBA:

- a) To send a copy of this order to the complainants and the news channel;
- b) To circulate this order to all Members, Editors & Legal Heads of NBA.
- c) NBA to also host this order on its website and to include it in its next Annual Report.
- d) Release the Order to media.

Sd/-
Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi

Date: 18.7.2016