

News Broadcasting Standards Authority
Order No. 40 (2016)

Order of NBSA on the complaint filed by Kerala Govt. Medical Officers' Association [KGMOA], Thiruvananthapuram District Branch represented by Dr. Sheena G. Soman, District President, and Dr. Aisha S. Govind, CMO, General Hospital, Thiruvananthapuram, regarding breach of Code of Ethics & Broadcasting Standards in the programmes *Dhim Tharikida Thom* (30th & 31st October, 2015), *Vakra Dhrishti* (28th October, 2015); News scrolls from 27.10.2015 to 30.10.2015 on Mathrubhumi News Channel.

NBSA noted that the complainants had stated that a complaint dated 2.11.2015 was filed by Dr. S. Prameela Devi, State President, KGMOA, against the broadcaster for attempts to defame lady doctors and Kerala Government Medical Officers Association in its programmes broadcast from 27.10.15 to 31.10.15. It is alleged that the broadcasts violated the privacy of 23 lady doctors, through their biased reporting and resort to sting operations, apparently to take revenge for the unfortunate but medically unavoidable death of their cameraman, which the broadcaster perceived as being due to the negligence of a doctor (Dr. Aisha S. Govind). The complainant stated that the broadcaster failed to use proper discretion when reporting against women and depicted lady doctors as "*murderers and criminals*". The complainants stated that though the autopsy report and the Expert Committee exonerated the concerned doctor from any negligence, the broadcaster continued to defame the concerned lady doctor and the Association of doctors in Kerala, who tried to get justice for the doctor against media distortion of facts; threats to further defame the General Hospital, Trivandrum, through press reports and sting operations against doctors continued. The doctors demanded that a formal apology should be published through press and media and that the unethical sting operations with intent to harass the doctors should be stopped. They requested that justice be given to them by punishing the broadcaster for not ensuring impartiality and objectivity in reporting; unable to ensure neutrality in their programs "*Dhim Tharikida Thom*", "*Vakradrishti*" and news scrolls.

A complaint had also been filed on behalf of Dr. Aisha S. Govind, KGMOA, and other lady doctors before the Vanitha Commission, Trivandrum, which is a Statutory Authority. KGMOA had confirmed vide email dated 16.12.2015 that they had not received any response to the complaint from Vanitha Commission or from the broadcaster and therefore they had approached NBSA.

NBSA noted that KGMOA represented by its State President, Dr. S. Prameela Devi, had sent a complaint dated 2.11.2015 to the broadcaster and the broadcaster (through its counsel Mr. M. Shahier Singh) had sent a reply dated 7.1.2016 to the said notice. The said reply stated that on preliminary investigation, it was found that the camera person had high BP of about 170/100, but, except taking ECG, no other steps were taken by the attending doctors to lower or normalise the vital aspects like diabetes, BP, etc; that no steps were taken for a CT scan, which would have shown the hemorrhage; and that by the time the emergency measures could be taken, the camera person's condition deteriorated and he passed away. The notice alleged that pending enquiry, the attending doctor was placed under suspension; that the Report on the enquiry conducted immediately by the DMO had specifically inferred the non-addressing the high BP of the patient and had given the reason as 'causality load' for not being able to offer one-to-one care; that the preliminary enquiry report of DMO did not rule out any medical criminal negligence; that the subsequent post mortem report showed the reason for death as due to intracranial hemorrhage; and that a criminal case was registered by Cantonment Police Station against the suspect and the investigation was in progress. The broadcaster also pointed out that there were various media reports about the loss of human lives due to non-availability of proper medical attention and medical negligence in public hospitals. It denied the motives attributed to the programmes. According to the broadcaster, the programmes in question only made general criticism about the system, in the nature of a satire and there was nothing personal against doctors or any particular doctor. It also stated that there was no breach of the Code of Ethics or Broadcasting Standards in the broadcasts.

At the meeting held on 11.3.2016, NBSA considered the complaint and the response of the broadcaster and also viewed the broadcasts. NBSA was of the view, *prima facie*, that the broadcaster had breached the guidelines relating to impartiality, neutrality, and objectivity by not giving an opportunity to the doctor(s), who were being blamed for medical negligence to give their views but chose to make a programme ridiculing the doctors. The regulations require 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”*.... *“news channels must strive to ensure that allegations are not portrayed as fact and charges are not conveyed as an act of guilt”*. The complainants and the broadcaster were therefore directed to appear before the NBSA for a hearing.

Accordingly, at the hearing on 21.5.2016, the following persons appeared before the NBSA:

On behalf of KGMOA:

Mr. Rajesh B., Advocate

Dr. G.S. Vijayakrishnan, District President, Thiruvananthapuram, KGMOA

On behalf of Mathrubhumi News Channel:

Mr. B.G. Bhaskar, Advocate

Mr. Anil Pratap D.K., Manager Legal

Mr. B.G. Bhaskar, Advocate appearing for the broadcaster raised a preliminary objection that the complaint was not maintainable on account of the suppression of a material fact. He informed the NBSA that on 27.10.2015 itself, an FIR was lodged by Sri Manu, an employee of the broadcaster to the Police, accusing the Casualty Medical Officer at the Thiruvananthapuram General Hospital of gross negligence in attending to the deceased Rajimon; and that the police had registered an FIR and recorded a detailed statement from the informant.

The counsel for the broadcaster further stated that the police had referred the matter to the Sub Divisional Magistrate, Thiruvananthapuram under Section. 174 of the Criminal Procedure Code; and a report had been prepared by an alleged Expert Committee of three doctors which exonerated the second complainant (Dr. Aisha S. Govind) of "willful negligence", and that the said report dated 31.10.2015 is the basis for the present complaint before NBSA.

According to the broadcaster, the second report dated 31.10.2015 has no legal value and a complaint has already been filed before the Judicial Magistrate, I Class, Trivandrum, pointing out the illegalities in the second report and praying for proper legal action on the complaint filed on 27.10.2015; and the matter is thus pending before the Criminal Court and listed for hearing on 27.5.2016.

He stated that when the judicial enquiry by the criminal court on the charge of medical negligence has not been concluded finally, and the Proceeding Sheet of Judicial First Class Magistrate Court, Thiruvananthapuram showing that the case is posted to 27.5.2016 and the possibility of an award for compensation by the consumer forum cannot be ruled out, this complaint is premature and baseless complaint and should be dismissed with costs of the respondent.

Mr. Rajesh B., Advocate for the Kerala Govt. Medical Officers' Association (KGMOA), stated that NBSA may consider the limited grievance of complainants that without taking the version of the concerned doctor (second complainant) who, it was reported, was negligent in her work, the broadcaster aired two programmes and ran news scrolls defaming the concerned doctor for negligence and also the medical fraternity; that the doctor was suspended pending an enquiry; and that the Doctor was later exonerated of any medical negligence. He also stated that in their programme, the broadcaster had referred to the first complainant, Association as the Kerala Mortuary Officers Association (KMOA), in a derogatory manner. He desired that the broadcaster should air an apology on their channel for defaming the concerned doctor and the KGMOA.

After hearing and considering the submissions, NBSA is of the view that as per Regulations 7.2 read with Regulation 8.4.3 of the News Broadcasting Standards Regulations, it is not permissible or appropriate for the NBSA to take up matters which are already *sub judice*; and therefore NBSA was unable to entertain and decide the complaint. NBSA therefore treated the matter as closed for the present, reserving liberty to revive the complaint before the NBSA if necessary, on conclusion of the Court proceedings. The parties were also informed accordingly and the end of the hearing.

Sd/-

Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi

Date: 18.7.2016