

News Broadcasting Standards Authority
Order No. 67 (2019)

Order of NBSA on complaint dated 9.7.2018 of Mr. Anil Dharker, President, and Ms. Teesta Setalvad, Secretary, Citizens for Justice and Peace (CJP) against Zee News for telecasting of a programme titled “Kya Kehta Hain India” on 30.6.2018 @ 8 pm

Complaint

The complainants made a representation dated 24.7.2018 to NBSA and also filed an online complaint dated 30.7.2018 as they did not receive any reply from the broadcaster, to their complaint dated 9.7.2018.

The complainants stated that the programme, “Kya Kehta Hain India” aired on Zee News, shocked their conscience, as it focussed on communal hatred, disharmony as it provided a platform provided with complete endorsement and backing, as declared by the voice-over at the beginning of the programme, which called itself the “Constitution” of Zee News and that the programme has the recitation of poetry by various poets.

The complainant contended as follows:

- (1) Hariom Panwar, a Hindi Veer-Ras poet, began his poetry recitation with his polarizing views about Kashmir, claiming that he wrote the poem 28 years ago and had read it in front of former prime minister Atal Bihari Vajpayee; and that in his poetry, he stated: *“the problems in Kashmir can only be solved by the soldiers’ guns”, “Indian flags are torn in Kashmir, the murderers of Kashmir are set free, traitors are sent food in the mosque, every house has an AK 56, and death to India is written on the chest of Srinagar”* and *“tell Delhi to give the soldiers two days and whichever house doesn’t have an Indian flag will see the worst.”*
- (2) Dinesh Raghuvanshi, another poet, said that in his poetry soldiers will enter Pakistan’s houses and kill them there; that India should challenge Pakistan and free the Kashmir land it took over in 1948; that all those who are against the Indian army in Kashmir, those people will not just be tied to the bonnet of the car but all four sides [The complaints stated that a Kashmiri shawl weaver who voted in the elections for India was tied to an army jeep with a piece of paper stuck to him which said ‘this is the fate of the stone-pelter; and the army had tied him as a human shield and message against stone-pelters in Kashmir. The complainants alleged that poet not only encouraged but propagated such violence against citizens of India due to their ethnic and religious identity].
- (3) Dr. Anamika, another poet, expressed most extreme views. She said that Kashmir breeds traitors who betray the country and bombs are grown in containers that store the saffron spice. She asks in her poetry that for how long the country will keep sending lions for dogfights. *“Remove Section 370*

and enter every Kashmiri house. Whoever doesn't hoist the Indian flags, let the heads of those traitors roll".

- (4) Santosh Anand, another poet, said that stone-pelters need to be taught the final lesson.

Complainants stated that such exhortations calling for the killing of fellow human beings and citizens was allowed by the channel to be propagated to millions of viewers, spewing hate within households across the country; that the divisive rhetoric and its encouragement and celebration reflected on the mindset of public violence and lynchings which has emerged as a major law and order challenge for the country; and that the rhetoric of violence propagated by Zee News through the programme violated its commitments to media ethics as it irresponsibly misusing the power of media. The complainants stated that the programme violated the Principles of Self Regulation Code 7- *Endangering National Security*, as the content broadcasted by the news channel encouraged and promoted violence against a particular community, thus endangering national security.

The broadcaster in its response stated that the programme in question provided a platform to eminent and acclaimed Hindi poets to present their views through poetry on nationalism and issues relating to Kashmir, issues relating to anti-India sentiments being spread by separatists, serious problems faced by army personnel in discharging their duties and obstacles created by stone pelters affecting the army operations; that the issues dealt with by the poets were not imaginary but are indeed being faced by army personnel in their day-to-day activities; and that the complaint apparently gave an impression that it is a vice/sin to express views on nationalism, or to speak against the stone pelters and separatists who are working against the interest of India and posing serious threat to national security. The broadcaster stated that these poets have not expressed their views first time but were doing so continuously at different public platforms.

The broadcaster stated that the content of the said program was based on the events of 29th September 2016 when border skirmishes between India and Pakistan began following reported "surgical strikes" by India against militant launch pads across the Line of Control in Pakistani-Occupied Kashmir; that the Indian operation was said to be in retaliation of a militant attack on the Indian army at Uri on 18th September 2016 in the State of Jammu and Kashmir (that left 19 soldiers of the Indian Army martyred) and had caused severe damage on terrorist outfit Lashkar-e-Taiba(LeT); that the said "Surgical Strike" by the Indian Army was highly politicised when several politicians questioned the authenticity and the said brave act of the Indian army; that it was disturbing to see that instead of lauding the valour and bravery of our soldiers, some politicians had stooped low by calling the same as a "farical strike" just to gain some political mileage and had questioned the credibility of the Indian Army; that in response to the same, the government had released the footage of the said

covert surgical strike to the public to laud our brave soldiers; that the said program was intended to be on nationalism and to shower praises on the brave hearts; that it was unfortunate that instead of going into the content and the intention of the broadcast, the complaint was based on some selective lines and stanzas picked out of context in an attempt at to distort the facts and give it a coloured and communal tint. The broadcaster contended that the panelists of poets had expressed their anguish and views on the stone pelters protesting the killing of five Hizbul Mujahideen terrorists in an encounter in Shopian and killing a 22-year-old tourist from Tamil Nadu; and that nowhere in the said program any community was insulted or demeaned.

The complainants responded by contending that the reply of the broadcaster did not address the issues raised in the complaint. They contended that while the surgical strikes that took place in September 2016 were undoubtedly part of the response of Indian military 'establishment', it was in no way the defining moment or justification for the programme aired on Zee Television titled "*Kya Kehta Hain India*"; and that the iteration around the military operations on the border a whole year earlier has little to do with the content of the complaint. The complainants also took exception to the definition of '*nationalism*' as expounded by Zee television in justification of the telecast since violence and/or vitriol did not embody nationalism. They stated that the issues raised in the complaint were about inciteful poetry and verse, wherein even young children were used as agents to fan hatred which could lead to violence; that by spewing venom directed against all Kashmiris as a justification in the name of what our soldiers go through is to tread a rhetorical line; that it was not their intention in any way to lessen or deride the acts of Indian defence forces; and that what is in question in the complaint made by them is the levels of hatred directed against ordinary Indians [in this case the Kashmiris]. They submitted that Indian law has provisions against the use of expressions, written, oral or spoken that may incite violence against sections of the citizenry. (Section 153a, 153b, Section 505 and 295 of the Indian penal Code].

NBSA at its meeting held on 17.1.2019 considered the complaint, response from the broadcaster and also viewed the broadcast. NBSA was of the prima facie view that the broadcaster was in breach of the Specific Guidelines Covering Reportage No 2 (Impartiality, Neutrality & Fairness): (2.1) "*For balanced reportage, broadcasters should remain neutral and ensure that diverse views are covered in their reporting, especially on a controversial subject, without giving undue prominence to any particular view*" and Guideline No 3(.Law & Order, Crime & Violence): "*Broadcasters should not glamorize or in any way promote individuals, groups or organizations that employ or advocate the use of violence or engage in criminal / nefarious activity. Hooliganism, vandalism and all forms of delinquency should not be shown in favorable light*" and Clause 7 of the Principles of Self-Regulation of the Code of Ethics and Broadcasting Standards (Endangering national security).

NBSA decided to call both parties for a hearing on 25.2.2019. The complainants sought adjournment of the hearing due to a bereavement, which was accepted by the NBSA. The hearing was shifted to the next meeting of the NBSA.

On being served with notice, the following persons were present at the hearing on 28.3.2019:

On behalf of Complainant:

Ms. Aparna Bhatt, Advocate
Mr. P. Ramesh Kumar, Advocate
Mr. A. Rohen Singh, Advocate

On behalf of Zee Media Corporation Ltd. [Channel: Zee News]

Ms. Ritwika Nanda, Advocate
Ms. Devika Chopra, Advocate
Ms. Annie, Asst. Manager, Legal

Submissions of complainants:

The Counsel for the complainant submitted that the grounds of objections to the programme were given in detail in the complaint. She submitted that the tone and tenor of the programme focused on communal hatred, disharmony as it provided a platform provided with complete endorsement and backing, as declared by the voice-over at the beginning of the programme, which called itself the “Constitution of Zee News” and that the programme has the recitation of poetry by various poets. A news channel cannot use the medium in the guise of artistic/poetic liberties to air a programme which results in polarization, negative propaganda and encouragement of violence against a class of people in the country/society. A news channel cannot put out such divisive propaganda. The programme is neither a “debate” programme nor is it a “live” programme, but an edited programme where images have been used to propagate the hate agenda. While margin can be given for exaggeration of poetry, in the programme broadcast, the body language, tone and tenor of the poets encourages violence against a community. There is no neutrality/ objectivity or balance in the programme. In any balanced programme, there would be a disclaimer. In the absence of a disclaimer in the programme that the views expressed by the panelists/participants are not the views of the channel, it is very clear that the news channel completely endorsed the hate agenda run on their channel. The poets were given a completely free hand in the programme and there was no anchor to moderate the programme. The stand taken by the channel that the object of the programme was to encourage nationalistic and patriotic feelings was baseless and untenable.

Submissions of the Broadcaster:

The Counsel for the broadcaster submitted that six months after the Uri attack, the Government of India had released the video of the surgical strikes and it was in this

context that the six poets were invited to the programme to invoke patriotic and nationalistic feelings among the people. The object and context of the programme can be understood only by viewing the programme in totality and not by picking and choosing words and sentences out of context and reading them in literal sense, as has been done by the complainants. The programme was not intended to polarize citizens nor to spread negative propaganda, nor to encourage violence against any class of people in the country/ society.

Consideration by NBSA:

NBSA considered the submissions made by both the parties and also viewed the broadcast. NBSA noted that the broadcaster had set the tone of the programme, by stating in the beginning of the programme: “*Namaskar its Zee News’s constitution speaking*”. “*But the leaders of our own country call the surgical strike fake against our powerful army. Kept asking for proof. After the byte of the leaders Zee News shows the constitution and says India’s Nationalist poets will respond to such people who speak the language of Pakistan against India’s pride*”.

The following taglines were used in the programme: [Translated text]:

- *#Great Debate Show Kya Kabta Hai India- Poets’ Brambastr of Brambos on traitor of the country*
- *A nationalist surgical strike on those who eat from India and speak for Pakistan*
- *The shower of fire on those demanding proof of surgical strike 56 inches roar on by the great poet of the country*
- *Tweet with #Great Debate Show*
- *Nationalist surgical strike on those who demand proof from the army*
- *A befitting reply of the poets to those who ask for proof from the army*

Further, the 10 big messages of the Surgical Strike shown in the programme were as follows: [Translated text]:

1. देश की एकता-अखंडता पर हमले का करारा जवाब : A befitting reply to attack on the unity and integrity of the country
2. देश के शूवीरों का एक भी बलिदान व्यर्थ नहीं जाएगा : None of the sacrifices of country’s warriors will go in vain
3. सीमा पर बैठा दुश्मन खुद को सुरक्षित न समझे। The enemy sitting on the border shouldn’t feel safe
4. कांग्रेस के लिए बड़ी सियासी शिकस्ता : A big political defeat for Congress
5. कांग्रेस सेना से ‘विश्वासघात’ वाली पार्टी : Congress is a party that betrays the army
6. आतंकवाद बर्दाश्त नहीं। :No tolerance to terrorism
7. LoC पार के ठिकाने भी निशाने पर। The hideouts across LoC too are the targets
8. ‘सॉफ्ट स्टेट’ होने की इमेज बदली : Change in the image of being a soft state
9. सेना के खिलाफ अंतरराष्ट्रीय साजिश का पर्दाफाश : Busted an international conspiracy against the army

10. भारतीय सेना का शौर्य दुनिया में अतुलनीय : The valour of Indian Army is incomparable in the world:

NBSA noted that the “taglines and the ten big messages” of the surgical strike reflected the agenda of the programme. NBSA noted that there was no background to the programme, that it was one sided as the channel only put together a particular view. There were no representatives in the programme to give another point of view resulting in lack of balance in the programme. Certain portions of the language used in the programme were unwarranted and was likely to incite/instigates violence, animosity and hatred between communities. NBSA was of the view that the objectionable portions of the programme cannot be defended by terming it as a news programme on surgical strikes to celebrate the valour of our armed forces; and the programme lacked impartiality, neutrality and it instigated violence. NBSA also noted that the role of the anchor of the programme was also questionable.

NBSA therefore holds that the broadcaster violated the “*Specific Guidelines Covering Reportage No 2. Impartiality, Neutrality & Fairness 2.1 which states that “For balanced reportage, broadcasters should remain neutral and ensure that diverse views are covered in their reporting, especially on a controversial subject, without giving undue prominence to any particular view” and Guideline 3.Law & Order, Crime & Violence which states that “Broadcasters should not glamorize or in any way promote individuals, groups or organizations that employ or advocate the use of violence or engage in criminal / nefarious activity. Hooliganism, vandalism and all forms of delinquency should not be shown in favorable light” and the Clause 7 of the Principles of Self-Regulation of the Code of Ethics and Broadcasting Standards - endangering national security”.*

NBSA decided that a warning be issued to the broadcaster (Channel: Zee News) and that any future violations would be viewed seriously. NBSA also directed that the video of the said programme, if hosted, on the website of Zee News or any other links should be removed immediately and confirmed to NBSA.

NBSA decided to close the complaint with the above observations and inform the broadcaster and the complainants accordingly.

NBSA directs the NBA to send:

(a) A copy of this Order to the complainants and the broadcasters; (b) circulate this Order to all Members, Editors & Legal Heads of NBA; (c) host this Order on its website and include it in its next Annual Report. and (d) release the Order to media.

Sd/-

Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi

Date: May 1, 2019