



Date: July 28, 2022

To,

Justice (Retd.) A.K. Sikri Chairperson,
News Broadcasting & Digital Standards Authority (NBDSA)
C/o News Broadcasters Association
Mantec House, C-56/5, 2nd Floor,
Sector 62, Noida - 201 301
(authority@nbanewdelhi.com)

Cc: Ms Annie Joseph,
For and on behalf of NBSA News Broadcasting & Digital Standards Authority
C/o News Broadcasters Association

Subject: Complaint against the Times Now debate shows on 'Teesta Setalvad' aired on 25th, 27th and 28th June, 2022

Respected Sir,

This is in reference to the three debate shows aired by Times Now on 25th, 27th and 28th June, 2022 discussing the arrest of Teesta Setalvad. The tone, tenor and choice of words spoken as well as displayed on the screen during the shows, suggests that the intention of the shows was to project Teesta Setalvad, a highly respected journalist and human rights defender, as someone unworthy of trust or compassion.

The shows further sought to question her patriotism and credibility, and presented information about her in a manner that not only demeans and vilifies her, but also casts aspersions upon her humanitarian work. The fact that the shows were broadcast on national television, accessible and within the reach of the huge number of people, is bound to have an impact on Setalvad's reputation by affecting people's perception of her.

Before going into the contents of the show, we would like to bring to your notice that we have sent our complaint to the channel on July 1, 2022 in this regard but we have not received their response within the 14 days limitation period. Therefore, we are filing this complaint with NBDSA.

Copy of CJP's complaint to the channel dated July 1, 2022 has been marked and annexed hereto as Annexure A

At the outset, the entire telecast of the 3 debate shows appeared to be one-sided and partisan violating the basic principles of journalism and those laid down by the esteemed News Broadcasting and Digital Standards Authority (NBDSA). The hosts of the various shows, namely



-a Navika Kumar, Rahul Shivshankar, and Poonam Budre appeared biased towards the Bharatiya Janata Party (BJP) spokespersons throughout the show.

Even though the above-mentioned content of the channel has been removed for violating YouTube's Terms of Service, we have objections with the conduct of the hosts on the shows and request that measures to prevent such incidents from repeating in the future. We urged the channel to provide us with a copy of these videos in its entirety to take this up with the NBDSA but the channel failed to act on it.

Here are the links of the now deleted videos:

<https://www.youtube.com/watch?v=4MnjJ8BbOIE>

<https://www.youtube.com/watch?v=zr0wpR6p1M0>

https://www.youtube.com/watch?v=rL_Ju60T2Bk

A copy of the screenshot of the YouTube page is marked and annexed hereto as Annexure B

The following Times Now debate shows started with sensationalist taglines during their broadcast such as:

25th June 2022- Teesta Setalvad arrested by Gujarat Crime branch; Plot nailed; plotters next?

27th June 2022- Was Teesta's NGO given money? Did Congress plotted (sic) conspiracy against Modi?

28th June 2022- Teesta Setalvad exposed; Rules bent to grant funds, proof of Congress patronage uncovered.

A copy of an excerpt from Times Now show hosted by Navika Kumar dated 27.06.2022 is annexed and marked hereto as Annexure C

A copy of an excerpt from Times Now show hosted by Navika Kumar dated 27.06.2022 is annexed and marked hereto as Annexure D

A copy of an excerpt from Times Now show hosted by Rahul Shivshankar dated 28.06.2022 is annexed and marked hereto as Annexure E

We agree that the media has the freedom to report on any subject matter concerning public interest. It is a fact that Teesta Setalvad is arrested, but a media trial against her is completely unwarranted. Airing news of Teesta Setalvad's arrest is well within the rights of the news channel, however, they cannot treat the police report as gospel truth and therefore on that basis alone

cannot proceed to discuss the program as if the charges made against her have been proved before the court of law.

The claims made by the channel insinuating that Teesta Setalvad had been proven guilty or there is sufficient evidence against her to prove her guilty, clearly amounted to media trial which is not permissible in law.

Moreover, the channel flashed sensationalist taglines and tickers during the broadcasts which gave an impression that the accused had already been declared guilty.

In view of the same, we believe that the broadcasts violated the principles of Impartiality, Objectivity and Neutrality enshrined under the Code of Ethics & Broadcasting Standards and Guidelines issued by the News Broadcasting and Digital Standards Authority (NBDSA). When the debate shows in question are viewed in entirety, the broadcasters cannot deny the fact that these taglines create a certain perception amongst the public. Therefore, it is important that taglines and/or hashtags be used carefully especially in controversial matters.

Additionally, the entire telecast of all three debate shows appeared to be one-sided and partisan violating the basic principles of journalism and those laid down by the esteemed National Broadcasting and Digital Standards Authority. (NBDSA). The host appeared to be biased towards those panelists who were speaking in favour of the BJP in all the three debate shows. It appeared as if the host and the BJP supporters had teamed up against the other panelists who were at least individually making their valid points and voicing different opinions. The host is expected and supposed to be a neutral person. But in these shows, the hosts' bias and favouritism is clearly visible.

Here is the summary of what the debate shows in question entailed:

25th June 2022- Teesta Setalvad arrested by Gujarat Crime branch; Plot nailed; plotters next?

Throughout the show the following tickers were displayed:

BJP Wants 'Fixer In The Dock'

'Modi Baiter' Arrested

Lutyens 'Fix Modi' Plot Nailed?

Here's a description and corresponding time code of remarks we find crossed a line:

[10:00] BJP Spokesperson Tehseen Poonawalla says, "Today if anybody should be angered and outraged then it should be the victims of 2002 who were used for political gains by Sonia Gandhi and for monetary gains by Teesta Setalvad. The real question today is that who is this *Shadyantra ka Saudagar*?" (The anchor then asks who exactly is this conspirator as she claims to read out from the submissions by the State of Gujarat mentioned in the judgement).

It is to be noted here, that there is no direct reference to Teesta Setalvad in the Supreme Court's findings/observations as she was not even recognised by the Court as a party to the appeals and yet the anchor Poonam Budre reads out the submissions of the State of Gujarat as though they were the observations of the Supreme Court. This act is misleading to the viewers.

[17:13] Madhav Sharma, Political Analyst says, "Whatever Teesta did was to keep the pot boiling. Why did she do this? Number one- She has made a lot of money. She has made a fortune out of this. There are reports that she has used the money which was collected in donation for her personal expenses such as buying fancy wines, romantic novels, mobile phones. Number 2 motive was a political one. After two decades later, this woman, Teesta, first of all I have a strong objection to people calling her an activist. She is a propogandist. She is not an activist. What kind of activist uses money collected in the name of victims for her personal uses such as buying wine and champagnes."

The anchor Poonam Budre makes no attempt to interrupt the panelists from carrying out such a character assassination of Teesta Setalvad on national television without any basis.

27th June 2022- Was Teesta's NGO given money? Did Congress plotted (sic) conspiracy against Modi?

Throughout the show, the following tickers were displayed:

Teesta Files Unravel Tonight

Insider Reveals Rs. 1.4 Cr 'Deal'

SC Nails 'Fix Modi' Plot

Teesta-UPA 1.4 Crore Irregular Handshake

The host Navika Kumar goes on make baseless and false allegations against Teesta Setalvad of fraudulently obtaining funds for her trust from the UPA government. She falsely claims that the trust was ineligible to obtain such funds. It is further falsely claimed by her that the funds were used to print textbooks that were full of corrosive communal hate.

[1:04- 2:00] The host Navika Kumar says, "HRD Ministry under the NDA in 2016 submitted a report that brought out the truth about Teesta Setalvad's plot against Modi. The findings point out a nexus at an allegedly inappropriate nexus between the UPA government and Teesta Setalvad's Trust, Sabrang. The reports suggest that the UPA government had granted a 1.4 crore to Teesta Setalvad's Trust. The grant was approved despite objections raised by the NCERT which said that Teesta's NGO was ineligible for these funds. Guess what happened to that money? Those funds were later used to print textbooks which were full of corrosive communal hate against the Hindu community. Was there a quid pro quo between Teesta and Congress back then?"

[2:18- 4:45] With the intention of seeking further clarification on the funds, the host goes on to interview Teesta's former aide who has been reprimanded by courts for making various baseless allegations against Teesta Setalvad and her organisation. A Gujarat Sessions Court had even directed to file a complaint against him for the same.

[4:49- 8:17] Author, Dr. Anand Ranganathan goes on boldly speak about the endless allegations made against Teesta Setalvad over the years that have not been proved by the court of law to be true. Yet, the host Navika Kumar does not interrupt the panelist and allows him to speak of 10 such false claims loudly and boldly on national television. The vilest and absolutely baseless allegation being "She was caught recently tutoring the Shaheen Bagh Islamists to what to say to Supreme Court." Instead of making attempts to clarify who is he addressing to while using the term "Islamists", the host is seen agreeing with the Author as she says 'Absolutely'!

[8:18 -8:41] He further goes on to say, "Last week Supreme Court order clearly establishes that Setalvad and others had conspired to abuse the process of law. This is her past. Imagine the future. If I were to sum her up in one sentence, it would be that Teesta is a river of lies fed by a glacier of deceit and emptying into an ocean of fraud."

[9:59-10:20] The host Navika Kumar interrupts political analyst, Tehseen Poonawalla and corners him to ask, "Was Teesta's NGO given money regardless of her eligibility for it?" The host cannot take the statements made by Rais Khan as the gospel truth and then go on to make claims on the national television. It is the duty of the Times Now as a news channel to check the facts before making open claims. Moreover, when Tehseen Poonawalla simply denied having an answer to the question, she mocks him for the same.

It can be seen how the host moves onto another panelist when she doesn't get a favourable answer from the any panelist. She seems to be more patient with those speaking against Teesta Setalvad rather than the ones speaking in favour. In order to have a fair debate, the anchor must be impartial to all parties. This can be seen even in her interaction with another panelist, Saira Shah Halim, yet another political analyst on the show.

[10:41-11:56] The host Navika Kumar does not even give her a fair opportunity to voice her opinion and immediately moves on to BJP MP GVL Narsimha Rao. While Saira continues to speak, she has been muted by the channel and the spotlight is given to BJP MP GVL Narshimha Rao to speak.

[13:44] She ends the debate by asking Tehseen Poonawalla to introspect about the names PM Narendra Modi has been called by several Congress leaders before making charges at others (referring to PM Modi himself for abusing the then Election Commissioner).

28th Jube 2022- Teesta Setalvad exposed; Rules bent to grant funds, proof of Congress patronage uncovered

Throughout the show the following tickers were displayed:



'Padma', Post And Paisa

Modi Fixer Was Favoured

Rules Bent To Grant Funds

Taxpayers Bled To Oblige

'Quid Pro Quo' Proof In 9 Pages

Proof Of Cong 'Patronage'

'Reward' For 'Ruin Modi' Plot?

[3:40-5:09] The anchor Rahul Shivshankar can be seen holding papers in his hands stating, “Here for the first-time viewers there might be enough evidence to make this conclusion. The nine pages accessed by Madhavdas Goapalan Krishnan (Senior Editor, Times News) are perhaps viewers the link between Teesta Setalvad, the Congress and the UPA. In these 9 pages is the story of what many believe is a quid pro quo. Rules were bent by the congress led UPA in 2010 to benefit Teesta Setalvad’s NGO with a grant of 1.4 crores. Yesterday we gave you a sneak peak. Today we have the entire trail.

[5:14] The ticker flashes:

“Teesta present at meeting to decide grant for her NGO”.

“Grant approval despite clear conflict of interest based on oral submission”

“Grant clearance after field report signed only by central nominee, not state”

[5:23] The Senior Editor, Madhavdas Gopalan Krishnan goes on to talk about the 3-member bench Ministry of Human Resource Development (MHRD) report which allegedly talks about the ineligibility of the application by Teesta’s NGO to receive the HRD grant.

As stated earlier, the claims made by the channel basis this report insinuating that there is sufficient evidence against Teesta Setalvad clearly amounts to media trial which is not permissible in law.

[11:15] The ticker flashes:

“NCERT rejects the proposal to release the grant twice”

“Handwritten notification overrules NCERT red flags raised in July 2010”

“Direction issued to consider Teesta’s Ngo in September 2010”

[12:10] The host Rahul Shivshankar goes on to say, “Grant clearance after field report signed only by central nominee, not state. Obvious question- Why was the UPA bending over backwards to oblige Teesta Setalvad? At stake viewers was our money. Tax payer money. 1.4 crores of it. This establishes what was only an allegation perhaps with some amount of factual evidence that there might have been a quid pro quo involved here that at least a favour was done.”

The TV channel is no court of law to discuss any kind of evidence and lacks the authority to establish any kind of allegation.

[13:35] When asked why the UPA government bent backwards for Teesta Setalvad, the panelist Sanjay Jha (Author) simply replied that Teesta Setalvad and her lawyers shall fight it out in the courts. However, the host still claimed that he did not answer the question, thereby attempting to conduct a media trial which is clearly not permissible in law.

The Violations of NBSA principles

Following are some of the codes of ethics and principles of self-regulation as laid out by the NBSA, violated by Times Now:

SECTION – 1

FUNDAMENTAL PRINCIPLES

- 1) Professional electronic journalists should accept and understand that they operate as trustees of public and should, therefore, make it their mission to seek the truth and to report it fairly with integrity and independence. Professional journalists should stand fully accountable for their actions.
- 3) News channels recognize that they have a special responsibility in the matter of adhering to high standards of journalism since they have the most potent influence on public opinion. The broad principles on which the news channels should function are, therefore, as stated hereinafter.
- 4) Broadcasters shall, in particular, ensure that they do not select news for the purpose of either promoting or hindering either side of any controversial public issue. News shall not be selected or designed to promote any particular belief, opinion or desires of any interest group.
- 6) Broadcasters shall ensure a full and fair presentation of news as the same is the fundamental responsibility of each news channel. Realizing the importance of presenting all points of view in a democracy, the broadcasters should, therefore, take responsibility in ensuring that controversial subjects are fairly presented, with time being allotted fairly to each point of view. Besides, the selection of items of news shall also be governed by public interest and importance based on the significance of these items of news in a democracy.

SECTION – 2

PRINCIPLES OF SELF REGULATION

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.

News Broadcasters Association: Specific Guidelines Covering Reportage

4. Good Taste & Decency, Sex & Nudity

4.1 In selecting content, broadcasters should abide by current norms and mores of decency and taste, in visuals, language and behaviour, keeping in mind the context in which any visuals, language or behaviour occurs, including the broadcast time, type of content, target audience, use of parental advisories, cautions and content classification.

4.2 Content that contains violent or sexual material, crude, offensive, or coarse language or other content likely to disturb or offend even a reasonable adult viewer should be avoided.

The channel also stands in violation of **the Cable Television Network Rules, whereby the programme Code under Rule 6** states that

(1) No programme should be carried in the cable service which:-

(c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;

(e) Is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote-anti-national attitudes;

(h) Contains anything affecting the integrity of the Nation;

(i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;

Judicial precedent:

In the case of *Nilesh Navalakha v. Union of India*, [2021 SCC OnLine Bom 56] the Bombay High Court delivered a judgment analysing media trials in the Sushant Singh Rajput death case, observing that the media ought to avoid reports touching upon an ongoing investigation and present facts which are in public interest rather than ‘what, according to the media, the public is interested in.’”

A bench of Chief Justice Dipankar Datta and Justice Girish S Kulkarni held, “*Notwithstanding that freedom of speech is the bulwark of a democratic government and the role of the press/media to discover the truth and to ensure proper functioning of the democratic process is undoubtedly salutary, at the same time, the press/media must remember that its concern for discovery of truth and maintenance of purity in all streams of good governance by opening up channels of free discussion of issues should stop short of exceeding the permissible legal and Constitutional means.*”

The court observed that any report of the press/media, having the propensity of tilting the balance against fair and impartial “*administration of justice*”, could make a mockery of the justice delivery system rendering ‘truth’ a casualty and that it was the duty of the press to report correct versions of incidents without any distortion/embellishment.

The court also pointed out how the membership of NBA or NBF was voluntary and any channel wanting to evade such self-regulation could simply not join or cancel their membership thus making it as good as a farce. The court opined that “such self-regulatory mechanism would hardly meet the constitutional expectations of the citizens of a fair and responsible broadcasting, which would not be of a nature of an unwarranted sensitization, excessive publicity, leakage of evidence, and vilifying coverage, affecting public confidence in the judicial system and in the administration of criminal justice”.

The court primarily held that while the right of a fair trial has to be zealously guarded, equally important is the right of the press/media to keep the public informed of matters of public interest.

“...to amount to a trial by media, the impact of the press/media coverage on the reputation of the person targeted as an accused must be such that it is sufficient to create a widespread perception of his guilt, prior to pronouncement of verdict by the court, thus making him the subject of intense public scrutiny for the rest of his life.”

The court held that by an investigator that a free, fair, impartial, effective and meaningful investigation of a cognizable offence is a necessary concomitant of “*administration of justice*”, any speech/publication must also yield to larger considerations of maintaining the purity of administration of justice. The court held that since the media has the ability to mould opinion giving rise to strong public emotions, it ought to refrain from taking stances in its presentations which are biased and show a predilection for a particular point of view having enormous potential of deflecting the course of justice.

Responding to contention of Republic TV that investigative journalism gathers incriminating materials that could connect the accused with the offence of murder and there was an honest endeavour to present facts before the public, the court stated that as per the law, if the channel or anyone is in possession of information that could assist the investigator, “it ought not to be part of a news coverage but it would be the duty of such channel to provide the information that it has to the police under sections 37 to 39 of the Cr.P.C. to facilitate a proper investigation”.

The court opined that the media/press ought to avoid certain reports/debates/discussion touching upon ongoing investigation and only those items are presented for reading/viewing which are merely informative and in public interest.

The court directed that “No report/discussion/debate/interview should be presented by the press/media which could harm the interests of the accused being investigated or a witness in the case or any such person who may be relevant for any investigation, with a view to satiate the thirst of stealing a march over competitors in the field of reporting.”

The court also took into consideration the contention raised by media houses that when guests are invited to speak, it is difficult to censor their statements. The court held that while that may be true, it does not grant any speaker the license to either abuse or defame any particular individual which would make the channel as well as the individual liable for defamation and in case it amounts to obstruction to administration of justice then both the media house and the speaker can be liable for criminal contempt of court.

The court held that it is not sufficient to put a disclaimer that it does not associate itself with the views of the speaker and so to obviate the situation, the news channels could inform and guide the guest to refrain from making statements of such nature.

Even in the case of Nupur Sharma, the Supreme Court’s vacation bench of Justices Surya Kant and JB Pardiwala slammed the former BJP spokesperson for making “disturbing” statements against the founder of a particular religious community on the national television. The Supreme Court observed that the channel had no business to discuss the matter which is sub-judice, “except to promote an agenda”. It further added that if Sharma was aggrieved by alleged misuse of the debate, she should have lodged an FIR against the anchor.

Further, in *Manu Sharma v. State (NCT of Delhi); (2010) 6 SCC 1*, the Supreme Court observed that there existed a serious risk of prejudice being caused if the media exercised unrestricted and unregulated freedom in so far as carrying out parallel trial procedures without being held up to any standard.

Carrying out a media trail of a matter that is under investigation by a Special Investigation Team (SIT) will in all probability cause prejudice and ultimately lead to travesty of justice impinging the rights of the accused, who is rightfully innocent until proven guilty. By taking matters in your own hands and coming up with conjectures in nature of theories that could hamper due course of law, this channel is causing a disservice to the viewers while veering away from its duty to self regulate its content.

We, thus, humbly urge this esteemed Authority to take cognizance of this show aired by Times Now and take necessary action against them for conducting a media trial and spreading misinformation throughout the show.

Prayers

We humbly urge the NBDSA to:

1. Direct Times Now to issue a public apology on its channel for conducting a media trial and spreading misinformation while abdicating its duty to present verified news to its viewers. This apology should be widely telecast and displayed commensurate to the coverage and promotion of the initial broadcast itself.
3. Direct Times Now to refrain from broadcasting or posting any such content which would interfere with the fair trial of a person.
4. Take any other action against Times Now that it may deem appropriate.

Yours sincerely,

Nandan Maluste, President

Teesta Setalvad, Secretary



Annexures:

- Annexure A A copy of CJP's complaint to Times Now dated 01.07.2022
- Annexure B A copy of the screenshot of the YouTube page
- Annexure C A copy of the excerpt from Times Now show hosted by Navika Kumar dated 27.06.2022
- Annexure D A copy of the excerpt from Times Now show hosted by Navika Kumar dated 27.06.2022
- Annexure E A copy of the excerpt from Times Now show hosted by Rahul Shivshankar dated 28.06.2-22