News Broadcasting & Digital Standards Authority

Order No. 161 (2023)
Complainant: Citizens for Justice and Peace
Programme: "*Teesta Setalvad arrested by Gujarat Crime branch; Plot nailed; plotters next?"; "Was Teesta's NGO given money? Did Congress plotted (sic) conspiracy against Modi?" and "Teesta Setalvad exposed; Rules bent to grant funds, proof of Congress patronage uncovered."*
Broadcaster: Times Now
Date of Broadcast: 25th, 27th and 28th June 2022

Since the complainant did not receive any response from the broadcaster within the time period stipulated under the News Broadcasting & Digital Standards Regulation, the complaint was escalated to second level i.e., NBDSA.

Complaint:
The complaint dated 1.7.2022 was regarding the three debate shows aired on the channel Times Now on 25.6.2022, 27.6.2022 and 28.6.2022, which discussed the arrest of Ms. Teesta Setalvad. The complainant stated that the tone, tenor and choice of words spoken as well as displayed on the screen during the impugned shows, suggested that the intention of the programmes was to project Ms. Setalvad, a highly respected journalist and human rights defender, as someone unworthy of trust or compassion.

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

The impugned broadcasts appeared to be one-sided, partisan and violated the basic principles of journalism and those laid down by the esteemed News Broadcasting and Digital Standards Authority (NBDSA).

The complainant stated that it was aware that the above-mentioned content of the broadcaster had been removed for violating YouTube's Terms of Service. However, it had objections regarding the conduct of the hosts of the shows and requested the broadcaster to take measures so that such incidents are not repeated in the future.

The complainant stated that while it agrees that the media has the freedom to report on any subject matter concerning public interest and that it was a fact that Ms. Setalvad was arrested, however, a media trial against her was completely unwarranted. Airing news about her arrest was well within the rights of the

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broadcaster. However, it stated that the broadcaster cannot treat the police report as gospel truth and on that basis alone cannot proceed to discuss the programme as if the charges made against Teesta Setalvad had been proved before a court of law.

The claims made by the channel insinuating that Ms. Setalvad had been proven guilty or there was 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 the impression that the accused had already been declared guilty.

In view of the same, the complainant stated that it believes that the impugned broadcasts had violated the principles of Impartiality, Objectivity and Neutrality enshrined under the Code of Ethics & Broadcasting Standards and Guidelines.

Further, it stated that when the impugned debate programmes are viewed in entirety, the broadcaster cannot deny the fact that the taglines created a certain perception amongst the public. Therefore, it is important that taglines and/or hashtags should be used carefully especially in controversial matters.

Additionally, the impugned telecasts appeared to be one-sided, partisan and violated the basic principles of journalism and those laid down by NBDSA. In all the three shows, it appeared as if the host and the BJP supporters had teamed up against the other panellists who were at least individually making their valid points and voicing different opinions.

1. Programme titled "Teesta Setalvad arrested by Gujarat Crime branch; Plot nailed; plotters next?" aired on 25.6.2022

The complainant stated that throughout the show the following tickers *"BJP Wants Fixer In The Dock"; 'Modi Baiter' Arrested" and 'Lutyens Fix Modi' Plot Nailed?"* were displayed and the following remarks, which crossed the line were made:

At time stamp 10:00, BJP Spokesperson said, *"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 mnonetary gains by Teesta Setalvad. The real question today is that who is this Shadyantra ka Saudagar* ?". The anchor then asked who exactly this conspirator was as she claimed to read from the judgment, the submissions made by the State of Gujarat.

The complainant stated that in this regard, it may be noted that there was no direct reference made to Ms. 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 read out the submissions of the State of Gujarat as though they were the observations of the Supreme Court, which was misleading for the viewers.

At 17:13, a panellist who is a political analyst said, *"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."* During the impugned show, no attempt was made to interrupt the panellists from carrying out such character assassination of Teesta Setalvad on national television without any basis.

2. Programme titled *"Was Teesta's NGO given money? Did Congress plotted (sic) conspiracy against Modi?"* aired on 27.6.2022

The complainant stated that the following tickers *"Teesta Files Unravel Tonight"; "Insider Reveals Rs. 1.4 Cr 'Deal'"; "SC Nails 'Fix Modi' Plot" and "Teesta-UPA 1.4 Crore Irregular Handshake"* were displayed throughout the impugned show.

During the show, the anchor made baseless and false allegations against Ms. Setalvad of having fraudulently obtained funds for her trust from the UPA government. She also falsely claimed that the trust was ineligible to obtain such funds and that the funds were used to print textbooks that were full of corrosive communal hate.

At time stamp 1:04- 2:00, the anchor said that the *"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 an aid of Rs 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?"*

Between time stamps 2:18- 4:45, the anchor with the intention of seeking further clarification on the funds, went on to interview Ms. Setalvad's former aide who had been reprimanded by the Courts for making various baseless allegations against Ms. Setalvad and her organisation. In this regard, it may be noted that a Sessions Court in Gujarat had even directed for a complaint to be filed against him for the same.

Between the time stamps 4:49- 8:41, a panellist boldly spoke about the endless allegations made against Teesta Setalvad over the years that have not been proved to be true before a court of law. Yet, the anchor did not interrupt the panellist and allowed him to make 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 any attempts to clarify who he was addressing to while using the term *"Islamists"*, the anchor was seen

agreeing with the panellist as she said '*Absolutely'!* Further, during the programme he said, *"Last week's 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."*

At 9:59-10:20, the anchor interrupted and cornered a panellist by asking, *'Was Teesta's NGO given money regardless of her eligibility for it?'* The complainant stated that the anchor cannot take the statements made by Rais Khan as the gospel truth to make claims on national television. It was the duty of the channel to check the facts before making such open claims. Moreover, when the panellist simply denied having an answer to the question, she mocked him for the same.

The complainant stated that in order to have a fair debate, the anchor must be impartial to all parties. However, during the show, the anchor moved to another panellist when she did not get a favourable answer from the panellist. She seemed to be more patient with those speaking against Ms. Setalvad rather than the ones speaking in her favour. This could be seen even in her interaction with another panellist. The anchor did not even give the panellist a fair opportunity to voice her opinion and immediately moved on to BJP MP. While the panellist continued to speak, she was muted by the channel and the spotlight was given to the BJP MP to speak.

At 13:44, the anchor ended the debate by asking a panellist to introspect about the names PM Narendra Modi has been called by several Congress leaders before making charges at others.

3. Programme titled '*Teesta Setalvad exposed; Rules bent to grant funds, proof of Congress patronage uncovered'* aired on 28.6.2022

Throughout the show the following tickers *"'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'" and "'Reward' For 'Ruin Modi' Plot?"* were aired.

At 3:40-5:09, the anchor could be seen holding papers in his hands and stated, *'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.*

After which the ticker flashed *"Teesta present at meeting to decide grant for her NGO"; "Grant approval despite clear conflict of interest based on oral submission"* and *"Grant clearance after field report signed only by central nominee, not state".*

Thereafter, at 5:23 the Senior Editor started talking about the 3-member bench Ministry of Human Resource Development (MHRD) report which allegedly talked about the ineligibility of the application made by Ms. Setalvad's NGO to receive the HRD grant. The complainant reiterated that the claims made by the channel based on this report, which insinuated that there was sufficient evidence against Ms. Setalvad clearly amounted to media trial which is not permissible in law.

At 11:15, the ticker then flashed *"NCERT rejects the proposal to release the grant twice"; "Handwritten notification overrules NCERT red flags raised in July 2010" and "Direction issued to consider Teesta's NGO in September 2010"*

The anchor then stated that, *"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 complainant stated that the TV channel is not a court of law where any kind of evidence can be discussed and lacked the authority to establish any kind of allegation.

At 13:35, when asked why the UPA government bent backwards for Teesta Setalvad, the panellist simply replied that Ms. Setalvad and her lawyers shall fight it out in the courts. However, the anchor still claimed that he did not answer the question, thereby attempting to conduct a media trial which is clearly not permissible in law.

The complainant stated that by airing the impugned shows, the broadcaster had violated Fundamental Principles 1, 3, 4 and 6 under the Codes of Ethics and Broadcasting Standards and the Principles of self-regulation pertaining to Impartiality and objectivity in reporting and Ensuring neutrality. The impugned broadcasts also violated the Specific Guidelines Covering Reportage pertaining to Good Taste & Decency, Sex & Nudity.

The complainant relied on the judgment of the Hon'ble Bombay High Court in *Nilesh Navalakha v. Union of India, [2021 SCC OnLine Bom 56]*, judgment of the Hon'ble Supreme Court in *Manu Sharma v. State (NCT of Delhi); (2010) 6 SCC 1* and on the oral observations made by the vacation bench in the Nupur Sharma case to state that carrying out a media trial in a matter that was under investigation by a Special Investigation Team (SIT) would 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 into its own hands and coming up with conjectures in nature of theories that could hamper due course of law, the channel was not only doing a disservice to the viewers but was also veering away from its duty to self-regulate its content.

Complaint dated 29.7.2022 filed with NBDSA

The complainant reiterated the contents of its complaint to the broadcaster and urged the Authority to take cognizance of the impugned shows aired on Times Now and take necessary action against them for conducting a media trial and spreading misinformation throughout the show and to take action against the broadcaster according to the News Broadcasting Standards Regulations.

Reply from the broadcaster

The broadcaster vide its written submissions dated 2.9.2022 stated as under:-

1. That at the outset, all allegations / contentions / averments made by the complainant in the subject complaint were denied and disputed. The broadcaster stated that no part of the present written submissions may be treated as an admission of any such allegation/ averment / contention.

2. That the complaint was not filed with the Authority within time provided under Clause 8.2 of the Regulations, and as such, the complaint was liable to be dismissed as barred by time.

3. That further the present complaint was not maintainable as it had not violated any rules and regulations. The subject programmes were debate programmes titled "News Hour Debate – Special Edition", " The Newshour Debate @ 9" and "Blueprint Exclusive", wherein comments/views and responses were taken from various guests/speakers, experts on a specific, pointed and focused issues. Its debate programmes provided an equitable platform to panellists to put forth their views freely.

4. That from a perusal of the complaint filed by the complainant it appears that selected comments made by the anchor(s) have been highlighted to level these allegations and the complaint appears to be targeting the anchor(s) in their individual capacities as journalists. The complaint has focused only on one side of the spectrum and failed to appreciate that counter arguments are equally relevant, important and critical for viewers to form their opinions, specifically when popular beliefs and criticisms are challenged. Viewers have a right to know an alternative argument to such popular beliefs on significant matters and raising pertinent, strong and pointed questions cannot be brushed aside with the allegation that it 'peddled a narrative'.

5. That Mrs. Setalvad's arrest was a newsworthy event, hence, it was reported and debated, by the media. The background case that led to her arrest was imperative to be brought out, as this was an old matter concerning the investigation into the Gujarat riots in 2002, in which her alleged role was pivotal. This fact has been considered and commented upon by the Hon'ble Supreme Court in its judgment dated 24.06.2022 in *'Zakia Ahsan Jafri Vs. State of Gujarat and Another', 2022 SCC Online 773.*

6. That the channel's intent was not to hold Mrs. Setalvad guilty before investigation but to analyse and debate the steps leading up to her arrest, as a public interest issue. Simultaneous to this, there was also a discussion on the findings of the Hon'ble Supreme Court in the aforesaid judgment.

7. That in a live news debate, connected issues are invariably raised by the panellists. Multiple views and opinions are put forth and dissected, which is essential to have a free debate on the chosen topic.

8. That there was no violation of any Code of Ethics, regulations of NBDSA/NBDA in the impugned broadcasts as the said news coverages did not impede any individual's right and the public has the right to know. Investigative journalism was carried out and only pertinent and contextual questions were posted on the debate to bring out all aspects of the situation. Pertinently, no opinion was formulated by the channel, or its reporters and these questions were neither leading nor accusatory as alleged. It may be noted that a question mark at the end of the sentence changes the context in which the debate is presented. It displays that the journalist seeks to question the administration et al. and the same are not the views of the journalist.

9. That it was necessary that the impugned programmes should be viewed as a whole, and not on the basis of breaking, and dissecting a sentence or a stanza to show any adverse effect, without contextually understanding as to why that statement or sentence or stanza came about. Further, the choice of a news debate is entirely editorial discretion. The topics chosen here were the recent incidents in the nation. There was no cherry picking and no interest groups were being served by such debates. Such allegations were motivated and in fact the complainant had cherry picked statements made in the debate to push an agenda. Further, it stated that the channel did not impose its opinions in the debate. Raising pertinent questions is part of media's right to report on issues that are of public interest. Several opinions were made available in the debate. Therefore, to call it an opinionated programme was incorrect and baseless.

10. That the broadcaster relied on several and upon the past decisions of NBDSA in support of its submissions to state that mere exaggeration, however, gross may be, would not make the comment unfair, if not founded by malafide.

11. That an overall perusal of the notice cum complaint clearly showed that the comments and quotes displayed during the debates had been taken completely out of context. For instance, where the channel was displaying quotes made by someone, for e.g. *'Modi Baiter Arrested'*, the notice cum complaint referred to it as a direct quote of the channel, taking it totally out of context. The broadcaster stated that these phrases and terms were quoted by persons and were not the opinion or terminology framed by the channel or its representatives. The anchor of the debate shows merely quoted from the judgment and one cannot attribute such direct

quotes to that of the channel's biased view on the issue. The channel had clearly displayed where required, that these quotes were of either the BJP or the opposition, as relevant.

12. That in a live debate show, the anchor attempts to pose questions to all factions, with a view of getting views and opinions across the board on a given topic. While time constraints play a vital role in how much time is given to each panellist, it was wrong to accuse the channel or its anchors of interrupting the panellists, when clearly the focus of these debates was to get as many opinions as possible and responses to the questions raised, within the time available for the show. It is to be highlighted here that the views and opinions expressed on the show are independent and individual personal views of the panellists and the channel does not in any manner whatsoever, promote, endorse, or ratify any of such views as that of its own. The channel also displayed a clear disclaimer to this effect while conducting such debate programmes for the benefit of the viewers at large.

13. The broadcaster relied on the decision of the Hon'ble Supreme Court in the *Pegasus matter titled Manohar Lal Sharma v. UOI & Ors. W.P. (Crl.) 314 / 2021* , wherein the Hon'ble Court had upheld freedom of speech and protection of journalistic sources. It also relied on the decision of the Hon'ble Delhi High Court in the case of *Sushil Sharma v. State (NCT of Delhi), [1996 SCC OnLine Del 345] -para 22,* in support of its submissions. It also relied on the various other judgments to state that under Article 19(1)(a) of the Constitution, the broadcaster has the right to disseminate to the public at large information and the citizens have the right to know about the current affairs of the country. Therefore, a balance has to be struck between applicable guidelines on news broadcasters and the citizen's right to know. Further it relied on the judgment in *Khushwant Singh v. Maneka Gandhi* and *Shashi Tharoor v. Arnab Goswami* to state that there was a right to hold unpopular views and that publication must be seen wholly and not in parts. That publication must be seen from the viewpoint of a person of average intelligence. It stated that the aforesaid clearly, demolishes the allegations levelled against the anchor/ journalists in the complaint under reply.

14. That it was pertinent to state that a news channel was well within its right to present the news event and current affairs of extreme public and national importance in the (i) manner that it deemed appropriate, without violating the restrictions contained under Article 19(2) of the Constitution of India, (ii) discuss the same leading to a fruitful discussion amongst the participants, and (iii) present unpopular views for the public to review the same. In short, it stated that discussion and advocacy of views without it becoming an inciting event cannot be considered to be in violation of the rules enshrined in our constitution.

15. That a perusal of the video footage of the debate/ programme would make it amply clear that there was no violation of the Fundamental principles No 1, 3, 4 and 6 and Section 2- Principles of Self-Regulation No. 1, 2 and 4 of the Code of Ethics

& Broadcasting Standards as alleged or otherwise or at all. The debates were conducted in a neutral, open and objective manner and in no manner casted aspersions or targeted any community or individual or influence or mislead the viewers in any manner whatsoever. All the information and facts disclosed were based on documents and judgments available in public domain. Therefore, the impugned programmes by no stretch of imagination could be deemed to have violated norms of decency and taste in visuals, language and behaviour.

16. That in the light of various submissions made both factual and legal and also various judgments referred, the broadcaster most respectfully submitted that it had telecasted the said programmes in exercise of its fundamental rights envisaged under Art 19(1)(a). There was no violation of any programme code or any other rules and regulations. Thus, the present complaint was not legally sustainable, hence need to be rejected outrightly.

Rejoinder dated 14.9.2022 from complainant addressed to Times Now:

The complainant stated that Ms. Setalvad, being the Secretary of CJP is the face of the organisation that is involved in ground level humanitarian and human rights work since its formation in 2002. Therefore it would like to clarify that any attempt or act to malign the image or reputation of Ms. Setalvad directly affected the image and reputation of CJP as an organisation and were aimed at targeting their work as well.

Before responding categorically to the contentions put forth in the broadcasters' response, the complainant reiterated in its entirety the contents of its complaint dated 29.7.2022 and the assertions made therein. At the outset, it refused to accept the broadcaster's denial of the allegations made by it in the complaint and stated that it stands by its assertions. It also sought to reserve its right to pursue all legal remedies available to it given the detrimental and adverse impact of the broadcaster's malignant campaign.

It reiterated that the anchors in all the three debate shows failed to adhere to the norms of objectivity, impartiality, neutrality, fairness and accuracy as laid out in the Code of Ethics and Broadcasting Standards. In the instant case, the channel clearly conducted a media trial against her and discussed her arrest as if the charges made against her had been proved before a court of law. The claims made by the channel along with the sensationalist taglines and tickers insinuated that Ms. Setalvad was already convicted by the court of law.

From a perusal of all the debate shows, the complainant stated that one can clearly see how the anchors had laid out the conclusion even before the start of the debate, thereby influencing the trajectory of the discussion that followed. The following tickers *'BJP Wants 'Fixer In The Dock', 'Modi Baiter' Arrested, Lutyens 'Fix Modi' Plot Nailed?, Insider Reveals Rs. 1.4 Cr 'Deal', SC Nails 'Fix Modi' Plot, Teesta-UPA 1.4 Crore Irregular Handshake, Modi Fixer Was Favoured', 'Rules Bent To Grant Funds, Taxpayers*

Bled To Oblige, 'Quid Pro Quo' Proof In 9 Pages, Proof Of Cong 'Patronage' and 'Reward' For 'Ruin Modi' Plot?" which were displayed right from the beginning of the show also evidenced the same. All this while not even once acting neutral or giving the person, the channel is so maligning, the benefit of the doubt.

It stated that while objectivity and professionalism was not expected from the news channel it was at least expected that they would not foist malicious labels upon a person, who holds such high esteem in civil society; and not badger her with such unfounded, baseless and frivolous allegations.

The fact that the anchors in all three debate shows moved on to other panellists as soon as the panellist started discussing the other side of the coin in favour of Ms. Setalvad, showed how the impugned debate shows were absolutely biased, partial, and conducted with the intention to push an agenda. In addition to that, Ms. Setalvad, the person being reported on was neither made a part of the debate, nor were her views reported. Therefore, the complainant stated that it was clear that the intention of the channel was to hold her guilty before proper investigation was even conducted by the court of law.

In the past as well, in 2017, the news channel had aired content where Ms. Setalvad was called *"Modi Baiter"* and had made claims like *"Teesta Setalvad leads anti-Mandir activists"* while she was one of the many intervenors in a court case dealing with the Ayodhya land dispute.

The impugned debate shows did not merely discuss the background of the case or the steps leading up to her arrest, instead they went a step further to discuss out of context only certain excerpts from judgments or reports, that could be potential evidence in the legal proceedings before the court.

All this amounted to defamation, in simple terms, because the channel had made allegations about Ms. Setalvad without any basis or regard for facts. The job of a journalist is to present facts to the public and not to twist facts to suit their narrative.

Moreover, it stated that the right to freedom of speech and expression cannot affect the right to fair trial. The complainant relied on the following judgments *Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1], Nilesh Navalakha vs. Union of India, [2021 SCC OnLine Bom 56 and Venkatesh @ Chandra vs. State of Karnataka [Criminal Appeal Nos. 1476-1477 of 2018],* in support of its submissions., In the impugned debate shows, the broadcaster came up with *"conjectures in nature of theories"* by implying through its tickers the biased opinions expressed by the anchors that Teesta Setalvad had allegedly sourced illicit funds from the opposition Congress party and many such other baseless allegations.

It reiterated that the sole intention of the channel seemed to be to defame Ms. Setalvad by all means and to distort and manipulate public view on certain issues. The imputations made during the impugned shows lowered the intellectual character

of Ms. Setalvad, her character in respect of her calling, and lowered her credit in the minds of the many viewers of the channel and also that of Citizens for Justice & Peace.

Decision of NBDSA at its meeting held on 28.10.2022

After considering the application seeking condonation of delay filed by the complainant and the response received thereof from the broadcaster. NBDSA decided to call both the parties for a hearing. NBDSA also decided that it be conveyed to the complainant and the broadcaster that they should come prepared for the hearing of the above complaint on merits, in case the application seeking condonation of delay was allowed.

Hearing

On being served with notices the following persons were present at the hearing on 15.12.2023:

Complainant:

Ms. Aparna Bhatt, Legal Representative
Ms. Karishma Maria, Legal Representative
Ms. Sanchita Kadam, Legal Representative

Broadcaster:

Mr. Kunal Tandon, Advocate
Ms. Niti Jain, Advocate
Ms. Kirtima Maravoor, Compliance Officer NBDSA

Condonation of Delay:

NBDSA considered the application for condonation of delay and the reply thereof. In view of the fact that there was only a three-day delay in escalating the complaint to the second level of redressal, NBDSA condoned the delay and decided to hear the complainant and the broadcaster.

Submissions of the Complainant

The complainant submitted that the complaint related to three broadcasts which were aired on 25th, 27th and 28th June 2022. At the outset, the complainant reiterated the contents of its complaint. It submitted that in the first telecast on 25.6.2022, even though equal opportunity was provided to the panellists in the programme, however, the tone of the anchor was directed towards making insinuating remarks against Ms. Teesta Setalvad.

The complainant submitted that in the second broadcast aired on 27.6.2022, the anchor kept cutting the panellists who were trying to speak in support of Ms. Teesta Setalvad. In one case, she even muted a panellist. Further, panellists who were against Ms. Setalvad were granted more time and insinuating statements were made by the anchor during the programme. The complainant submitted that the broadcaster had prejudged the issue despite the fact that the case was pending in

Court, and investigation was still at a preliminary stage. Furthermore, the fact that Ms. Setalvad had taken action in a case involving an instance of very serious violence and the Court had found merit in the intervention application was not included in the impugned programme. The impugned programme also failed to mention that the Hon'ble Supreme Court had transferred cases at its own instance and that an SIT was appointed in the matter. In the impugned programme, only one case, which was found against Ms. Teesta Setalvad, which was at very preliminary stage of inquiry in which FIR had been filed against her, and she was arrested was covered.

The complainant submitted that during the impugned broadcasts, several disparaging comments were made against Ms. Setalvad, including labelling her as *"Modi Baiter"* and *"Lutyens fix Modi Plot"*. The complainant submitted that the conduct of the channel in the impugned broadcast was unbecoming of a news channel. That while the channel was free to report on the issue and also conduct a panel discussion in an objective manner, however the impugned broadcast lacked objectivity and violated the Code of Ethics & Broadcasting Standards and Guidelines.

The complainant submitted that in the third telecast as well, the broadcaster had resorted to a similar pattern of reporting. During the broadcast, panellists who spoke in favour of Ms. Setalvad were immediately shut down. The complainant submitted that the broadcaster's freedom of speech and expression carried with it the responsibility not to mislead viewers, not share false allegations, prejudge the matter or conduct a media trial. In view of the above, the complainant reiterated its prayer that the videos of the impugned broadcast should be removed by the broadcaster, which it said should not be available for public consumption and for the broadcaster to issue a formal apology for airing the impugned broadcasts.

Submissions of the Broadcaster

The broadcaster submitted that in the first broadcast aired on 25.6.2022, it had first reported about the arrest of Ms. Teesta Setalvad, which was a newsworthy event. Thereafter, at 21 minutes in the broadcast, a Senior Congress Leader's comment criticizing the Government was broadcast. After which, the press conference of a BJP Spokesperson was broadcast, followed by the Home Minister's press interview and the panel discussion started thereafter.

The broadcaster submitted that the only allegation levelled against it was regarding the use of terms like *'Modi Baiter'* in the impugned broadcasts. In this regard, the broadcaster submitted that the dictionary meaning of the word *"Baiter"* refers to a person who annoys and is not a defamatory word. It submitted that there was hardly any insinuation against Ms. Setalvad in the impugned broadcast. As far as the tone of the channel was concerned, the broadcaster submitted that the manner of presenting a debate has to be left to the presenter. It denied the allegation that it had allegedly reduced the time of the panellists who spoke in favour of Ms. Setalvad. It also denied the allegation that the broadcasts were misleading.

The broadcaster submitted that the broadcast must be seen in its entirety. It submitted that in the impugned programme, the judgment of the Hon'ble Supreme Court was also discussed in detail, including the finding that SIT had insinuated Ms. Setalvad based on which evidence she was arrested. In the impugned broadcasts, it had only discussed the current affairs of that particular time.

Further, the broadcaster submitted that as a public figure Ms. Setalvad could not be so thin-skinned not to be able to take criticism or even extreme criticism. That while according to the complainant, the impugned broadcasts may amount to extreme criticism, however it had not crossed the line of defamation or media trial. Hence, it submitted that there was no violation of the Code of Ethics & Broadcasting Standards and/or Guidelines in the impugned broadcasts.

In response to a question raised regarding the tickers aired during the broadcast, the broadcaster submitted that the tickers were based on the observations made by the Hon'ble Supreme Court in its judgment. Based on the findings of the SIT, the Supreme Court had come to a conclusion in respect of Ms. Setalvad's involvement in the incident, which was discussed in the impugned broadcast. Further, the tickers impugned in the broadcast were followed by a question mark. During the programme, a well-represented panel was present.

The complainant, in response, refuted the broadcaster's submission that the tickers aired during the impugned programmes were based on the observations made by Hon'ble Supreme Court in its judgment and stated that the language used in the tickers was defamatory and amounted to criticism. The complainant submitted that it may be noted that NBDSA had, in a previous order, fined the broadcaster for labelling Ms. Setalvad as *"Modi Baiter"*.

The broadcaster clarified that the tickers aired during the programme were not mentioned in the judgment of the Hon'ble Supreme Court. Rather, its submission was that the Hon'ble Supreme Court had in the judgment come to a conclusion in respect of Ms. Setalvad's involvement in the incident.

Decision

NBDSA considered the complaint, response of the broadcaster and also gave due consideration to the arguments of the complainant and the broadcaster and viewed the footage of the broadcasts.

NBDSA noted that the broadcaster had during the impugned broadcasts sought the views of several persons and the allegations made in respect of Ms. Teesta Setalvad. The broadcaster had also discussed the judgment of the Hon'ble Supreme Court in *Zakia Ahsan Jafri Vs. State of Gujarat and Another', 2022 SCC Online SC 773* in detail including the findings of the SIT in relation to Ms. Setalvad. Therefore, in these

aspects the broadcaster had not violated the Code of Ethics & Broadcasting Standards and the Guidelines issued by NBDSA.

However, NBDSA finds that using tickers in the impugned broadcasts such as *"Modi Baiter Arrested ; Lutyens 'Fix Modi' Plot Nailed?"* was neither necessary nor contextual, and not in good taste as well.

In view of the above, NBDSA does not appreciate the manner in which some of the tickers were aired during the impugned programmes and advises the broadcaster not to telecast tickers in this manner in future.

NBDSA further directs the broadcaster to edit the video of the said broadcasts, if still available on the website of the channel, or YouTube, by removing the aforesaid tickers. Same should be confirmed to NBDSA in writing. The revised edited version of the impugned broadcast after removing the aforesaid tickers should be submitted to NBDSA within 7 days of receipt of the Order.

NBDSA decided to close the complaint with the aforesaid observations and inform the complainant the broadcaster accordingly.

NBDSA directs NBDA to send:
(a) A copy of this Order to the complainant and the broadcaster;
(b) Circulate this Order to all Members, Editors & Legal Heads of NBDA;
(c) Host this Order on its website and include it in its next Annual Report and
(d) Release the Order to media.

It is clarified that any statement made by the parties in the proceedings before NBDSA while responding to the complaint and putting forth their view points, and any finding or observation by NBDSA in regard to the broadcasts, in its proceedings or in this Order, are only in the context of an examination as to whether there are any violations of any broadcasting standards and guidelines. They are not intended to be 'admissions' by the broadcaster, nor intended to be 'findings' by NBDSA in regard to any civil/criminal liability.

Justice A.K Sikri (Retd.)
Chairperson

Place: New Delhi
Date : 17-03-2023