

Speed Post/Email

November 3, 2023

<p>Citizens for Justice and Peace Nirant, Juhu Tara Road, Juhu, Santacruz (West) Mumbai – 400 049 Email: cjindia@gmail.com</p>	<p>Mr. MN Nasser Kabir Compliance Officer NBDSA TV Today Network Ltd. India Today Mediaplex, FC 8, Sector 16 A, Film City, Noida - 201301 Email: Nasser.Kabir@aahtak.com</p>
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Dear Sir/Madam,

Re: Order of NBDSA on Complaint No. 84 dated 12.4.2023 filed by Citizens for Justice and Peace against Aaj Tak for airing a programme on 6.4.2023

Attached please find Order dated November 2, 2023, passed by the News Broadcasting & Digital Standards Authority (NBDSA).

Thanking You,

Yours faithfully,



Annie Joseph
For and on behalf of the
News Broadcasting & Digital Standards Authority

Encl: As Above

News Broadcasting & Digital Standards Authority

Order No 175 (2023)

Complainant: Citizens for Justice and Peace

**Programme: Black And White with Sudhir Chaudhary LIVE: Uttarakhand
| Illegal Mazaar in Uttarakhand**

Broadcaster: Aaj Tak

Date of Broadcast: 6.4.2023

Since the complainant was not satisfied with the response received from the broadcaster, the complaint was escalated to the second level of redressal i.e., NBDSA.

Summary of Complaint dated 12.4.2023

The complainant stated that the anchor in the impugned show analyzed the alleged illegal *mazaars* in Uttarakhand. The anchor, who had inventively come up with terms like “Hard Jihad”, “Soft Jihad” and “Land Jihad” and so on in the past, had now come up with “Mazaar jihad”, which name calling was a clear violation of previous order and reprimands therein and multiple guidelines issued by the NBDSA, to which the channel had turned a deaf ear.

Some objectionable portions of the show which are the subject of the complaint are given herein below::

Aaj humane aaj sab ke liye ek hashtag bhi tayaar kia hai aur wo hashtag hai Mazaar jihad. Agar aapki koi tippani hai, koi ray hai toh aap iss hashtag ke saath tweet kar sakte hai.

Lekin aaj jo bada khulasa hum kar rahe hai wo ye hai ki jab in Mazaaro par bulldozer chalaya gaya aur inki jaach hui tab ye pata chala ki in Mazaaro me jo kabr bani hui hai un me se zaadatar me kisi bhi mrut vyakti ke avshesh nahi hai. Yani kabr hai aur Mazaar bhi bani hai lekin us kabr me koi manav avshesh nahi hai. Kyuki ye asli kabr hai hi nahi. ek nakli kabr banai jati hai

“Us nakli kabr ko Mazaar ka naam dia jata hai aur fir uss Mazaar ka itna visataar ho jata hai ki wo Mazaar kisi vishal dhaache me badal jati hai aur fir Dheere Dheere log vabar par aakar rehne lagte hai aur isliye hum ise aaj Mazaar jihad ka naam de rahe hai.”

Lekin agar aapke aas paas agar aapne aisi Mazaar dekhi hai toh police ko suchit kijiye, prashasan ko suchit kijiye, local MLA ko suchit kijiye aur unse kahiye ki in Mazaaro ki jaach ki jaye aur agar asli toh rehne dia jaye lekin agar atikraman kia hua hai to uss Mazaar par bulldozer chalna chiaye.

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The anchor also explained the difference between a Masjid and *Mazjaar*. He explained that Mazaars were the graves of Sufi saints and went on to clarify that he was not against any religion or even mosques. The analysis was not on real mosques, *mazaars* but only on illegal ones which were built on government lands. Repeatedly throughout the show, he prompted the viewers to tweet using “*Mazjaar Jihad*”. He also analysed a confidential government report describing the modus operandi behind how these illegal *mazaars* were built by capturing government lands and a list of illegal *mazaars* were broadcast during the impugned show.

The complainant stated that any journalist following the principles laid down by the Code of Ethics & Broadcasting Standards & Guidelines would have just presented the news about a government report which has claimed that illegal *mazaars* were found in Uttarakhand and presented what has been found or alleged. However, the anchor is one of the main propagators of the Anti-Muslim narrative and while he claimed to be neutral by expressly stating so, his so-called neutrality was laid bare when he used terms like “*Mazjaar Jihad*” and asked people to look around them for mazaars and report them to the police to verify if they were real.

Indulging in such name-calling and encouraging people to use hashtags such as “*Mazjaar Jihad*” was extremely unbecoming of a journalist who claimed to be neutral. It was found that many users on Twitter used this hashtag to express anti-Muslim views, thus indicating the vast impact the show had on the public view and how it had succeeded in its intention of propagating the anti-Muslim agenda.

If the channel intended to report on the government report and show a ground report, the same would have been only fact-based and the show would not have resorted to any name-calling of a specific and marginalized section of the population.

Through the content of the show, the channel had acted in complete violation of the Code of Ethics & Broadcasting Standards and few other guidelines pertaining to maintenance of religious harmony.

In view of the above, the complainant stated that it was in the best interest of the broadcaster to remove the above-mentioned content from all social media accounts of its channel and website and issue a public apology for the communal reportage.

Reply dated 25.4.2023 from the broadcaster :

In response to the complaint dated 12.04.2023, the broadcaster stated as under:-

The impugned broadcast contained ground-level reportage and analysis of the phenomenon of illegal encroachment in, *inter alia*, designated forest lands/ government lands in Uttarakhand through false imitation of *mazaars*. More

specifically, the impugned broadcast discussed Uttarakhand police's internal reports, which were displayed at, *inter alia*, 03:33:30, 03:35:30 and 03:39:00, which lay down the *modus operandi* of how such illegal encroachments were executed and also set out a list of such illegal encroachments. To provide a comprehensive picture the impugned broadcast also contained interviews of Uttarakhand's Chief Minister, Field Officer, Jim Corbett National Park and some local residents. Notably, none of their statements or the contents of the impugned broadcast have been alleged to be false or incorrect in the complaint.

That in accordance with the decision of the Hon'ble Supreme Court in *LIC v. Manubhai Shah (1992) 3 SCC 673*, the channel was at liberty, and even obligated, to report on matters of public and national importance such as the illegal encroachment of designated forest lands/ government lands by staging mock-ups of religious shrines.

The complainant has alleged that the impugned broadcast constituted a "violation of the Code of Ethics & Broadcasting Standards issued by the NBDSA and few other guidelines pertaining to maintenance of religious harmony". However, the complaint has failed to specify any provisions allegedly violated by the channel, preventing us from replying comprehensively. In the absence of any specific averments in the complaint, the broadcaster stated that it was not possible to deal with any specific provision of the Code of Ethics.

To the best of its knowledge, the broadcaster stated that no criminal action had been initiated by any persons on this basis nor had the police registered any FIR against the impugned broadcast or the anchor therein.

The complaint has unfairly branded the impugned broadcast as being anti-Muslim and stated that "the show has succeeded in its intention of propagating further, the anti-Muslim agenda". The broadcaster vehemently denied this statement, the allegation that the show, titled "Black and White" had a general anti-Muslim agenda, or that the anchor was "one of the main propagators of the Anti-Muslim narrative". These statements are false and defamatory. In fact, fearing such mischievous mischaracterization (including of the Impugned Broadcast), the Anchor had issued a disclaimer and clarified:

Aage badhne se pehle ek spashtikaran aur aapke saamne rakhna chahta hoon. Hum Islam ke khilaaf nahi hain, hum mazaaro ke khilaaf nahi hain, masjid ke khilaaf bilkul nahi hain, kisi dharam ke khilaaf bilkul nahi hain aur islam ko maanne walo ke khilaaf bilkul nahi hain. Yeh vishleshan unn par nahi hain. Yeh vishleshan sache musalmano par, sachi mazaaro par, sachi masjid par, islam par bilkul nahi hain. Yeh vishleshan gerkanooni mazaaro par hain. Yeh vishleshan unn mazaaro par hain, jo sarkari zameen par bana di gayi hain aur ab poore desh mein ek business

model ki tareh aap sabke saamne aa rahi hain isiliye koi bhi sachha muslimnaan iss vishleshan par aapatti nahi karega kyunki woh jaante hain ki gerkanooni jageh ya gerkanooni tareeke se hathyai hui jageh, beimaani se hathyai hui jageh par koi ibaadat karega bhi toh woh ibaadat sachi nahi.” (emphasis supplied)

Further, the impugned broadcast was neutral and targeted illegal encroachment and not any particular religion, as alleged in the complaint. The secular credentials of the impugned broadcast can be comfortably demonstrated from the statement made by the anchor during the broadcast :

“Yaha par hum ek aur baat spasht karna chahte hain. Agar kissi sarkaari zameen par avaidh kabza karke koi mandir banaya jaata hai, koi church banaya jaata hai, gurudwara banaya jaata hain, toh inn sabhi maamlo mein barabar ki karyawahi honi chahiye. Aur avaidh roop se banne, sabhi dharmik sthalo par, samaan roop se action hona chahiye. Isiliye, jo log yeh kahenge ki yeh khaas varg ke khilaaf yeh report hain ya khaas dharm ke khilaaf hain, toh hum yeh batana chahte hain ki kissi ke khilaaf nahi hain, yeh report sirf aur sirf atikraman ke khilaaf hain. Dharam ka naam lekar, jo atikraman ho raha hain. Logo ki dharmik bhavnao ke saath jo khela jaa raha hain. Aas paas ke jo local log hain, unhe pareshaan kiya jaa raha hain. Unki zameen par kabza kiya jaa raha hain. Dharam ke naam par prashasan par, sarkaari afsaro par, police par aur sarkaro par jo dabav daala jaa raha hain, hum iss report ko aise logo ke khilaaf dikeha rahe hain” (emphasis supplied)

In the complaint, four portions of the impugned broadcast have been identified as being “objectionable”, which are as follows:

- Alleged creation of hashtag “#MazaarJihad” [3:25:30- 3:25:48];
- Some demolished *mazaars* did not contain any human remains [3:28:26 to 3:29:06];
- Allegation that encroachment first starts with setting up a fake *mazaar* around which perpetrators gradually start residing [3:32:21 to 3:32:41];
- Urging citizens to report fake *mazaars* to the administration [3:43:53 to 3:44:28].

Before delving into the specific allegations, it was imperative to understand the context of the impugned broadcast. Purportedly illegal religious structures that had come under the scanner of the Uttarakhand government. The Uttarakhand State Government had instructed Uttarakhand’s forest department to conduct a special drive to identify such structures. Consequently, several such purportedly illegal *mazaars* were identified (more than 1,000) and the forest department was ordered to carry out their demolition. This is borne out from an interview of Uttarakhand’s Chief Minister, on Aaj Tak channel. This fact has been missed in the complaint.

Objectionable Portion #1: Creation of hashtag “#MazaarJihad”

The complainant has incorrectly stated that the host had *inventively come up with* the term “*Mazaar Jihad*”. There are many prior instances of the phrase being used in political discourse. For instance, the Chief Minister of Uttarakhand, , in an interview given to Panchjanya magazine, published on 03.04.2023, used the term “*Mazaar Jihaad*” for illegal encroachments through illegal *mazaars*, which was also the subject-matter of the impugned broadcast. In another interview conducted by the channel’s reporter, the Hon’ble Chief Minister once again used the said phrase. Therefore, it is evident that the phrase “*Mazaar Jihaad*” already existed in political discourse and had been popularized by the Chief Minister himself. It was not the invention of the channel or the Anchor.

As a responsible media outlet, it is the channel's duty to report on issues of concern to the local population. During this process, broadcasters must use terms that have become part of the political discourse. This was also the case with the term “LoveJihaad”, which has now entered the journalistic lexicon. In fact, the complainant’s own website has a whole page dedicated to “LoveJihaad”. Thus, the term “*Mazaar jihad*” was in no way different from the term “love jihad”.

Further, the Anchor’s suggestion to use “#Mazaarjihaad” was only to enable cross-referencing of all posts on this issue, which is popularly referred to by this phrase (Mazaar Jihaad) in Uttarakhand’s domestic politics, as is evident from Uttarakhand’s Chief Minister, statements. By means of this hashtag, a search within Twitter for #Mazaarjihaad returns all posts that have been tagged with that term. By no stretch of imagination can the channel be imputed liability for any user-generated content merely because it contained a hashtag suggested by the impugned broadcast.

Objectionable Portion #2 Some demolished Mazaars did not contain any human remains

The impugned broadcast revealed that some of the demolished *mazaars* (shrines built around graves) did not contain any human remains. The said information was based on information received from the channel’s assignment desk, which had correlated with their sources within the government. The complaint merely picked out this portion as “objectionable” without specifying any basis for it. This was especially important because the complaint does not claim that this portion is erroneous or provide any information or data to the contrary. In light of the same, the broadcaster stated that it fails to understand why this portion violated the Code of Ethics.

Objectionable Portion #3: Allegation that the encroachment first starts with setting up a fake mazaar, around which perpetrators gradually start residing

The impugned broadcast was in the nature of fair comment, i.e., it was without malicious intent and was based on accurate information. As stated before, the

impugned broadcast discussed the modus operandi of how such illegal encroachments were executed based on Uttarakhand police's internal reports (displayed at 03:33:30). The complaint once again merely picked out this portion as being "objectionable" without specifying any basis for it, nor does it state that the information is false.

Objectionable Portion #4: Urging citizens to report fake mazaars to the administration

In the impugned broadcast, the host urged the citizens to report any such illegal encroachments in the nature of fake *mazaars* to the relevant authorities to mobilise the authorities. In fact, it is a constitutional duty under Article 51A of the Constitution "(g) *to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures*" and "(i) *to safeguard public property and to abjure violence*". Surely if a *mazaar* is illegal, then the complainant cannot wish that it remain standing. Any illegal structure, regardless of any religious affiliation, must be taken down. As also with other allegedly "objectionable portions", the complaint merely picked out this portion without specifying any basis for it.

Therefore, in light of the above comments, the broadcaster suggested that the impugned broadcast be considered in its entirety and that the impugned broadcast was in accordance with Code of Ethics & Guidelines as it was balanced, fair and objective. Further, the impugned broadcast had not and cannot cause any prejudice to any person or religion. As a reputed and reliable media house, the broadcaster stated that it thought it was necessary to bring out true facts before the public in relation to illegal encroachment in the country and the same was made *bona fide*. The broadcaster and its channels were committed to upholding constitutional values. Hence, they requested for the complaint to be withdrawn without any further action.

Counter reply dated 28.4.2023 from the complainant:

The channel, in its response, had stated that the term "*Mazaar Jihad*" had been used by Uttarakhand Chief Minister in the past and hence, it cannot be said to have been invented by the anchor and that the term was only used "*to enable cross-referencing of all posts on this issue which is popularly referred to by this phrase (Mazaar Jihaad) in Uttarakhand's domestic politics*", the complainant stated that it cannot accept this submission by the channel since the anchor did not just use this term to quote what the Chief Minister had said but encouraged people to use it, further propagating the use of the problematic term.

The complainant stated that it was certain that the NBDSA will appreciate that encouraging the public to use such terms further propagates feelings of othering and alienation of the Muslim community.

This tiresome diatribe of Indian news channels has reached a point of no return and this may have been evident to the Authority as well, through the various complaints it has received in the past few years. Despite, previous reprimands and multiple guidelines issued by the NBDSA, the channels have clearly turned a deaf ear to such warnings and continue with their name-calling.

Already, it has been evidenced that in Uttarakhand, miscreants destroyed mazaars by claiming that they were on government lands, thus brazenly taking the law into their hands. What could follow is intense scrutiny of places of religious importance exclusively belonging to the Islamic faith to Muslims, resulting in a denial of basic fundamental rights, exclusion and discrimination. This systematic exclusion is not just anti-constitutional; it runs the risk of rendering a section of the Indian population without rights, discriminated citizens. India is witnessing, in larger and smaller measure, this systemic targeting of communities through hate speech that causes obvious harm, and such unchecked media propaganda only contributes to the ideological anti-constitutional onslaught being used by non-state and state actors to foster social disharmony.

This is not the first time that a show hosted by the anchor was before the NBDSA. The complainant stated that the anchor had received warnings from the Authority on various occasions

In its 'Advisory regarding Hate Speech' (dated November 11, 2022), the Authority has in clear words said that it *"deprecates the tendency of using inflammable, derogatory, extremist, divisive language and rhetoric, which not only violates the basic ethos of responsible and credible journalism but also lowers the public discourse by undermining the dignity of individuals and the principle of tolerance and equality which forms the bedrock of a pluralist constitutional democracy and ensures the prevention of erosion of the secular ethos of the Indian polity"*.

Indulging in such name-calling and encouraging people to use #MazaarJihad in hashtags was extremely unbecoming of a journalist who claimed to be neutral. It was found that many users on Twitter had used this hashtag and expressed some anti-Muslim views thus indicating the vast impact this show has had on the public view and how the show has succeeded in its intention of propagating further, the anti-Muslim agenda.

If the intention of the channel was to simply report on the government report and show a ground report, the same would have been only fact based and the show would not have resorted to any kind of name calling or public exhortations to take law into their own hands.

The claims in the show debunked

In the show, the channel has reported what it terms a “ground report” and shown many such mazaars in the state, on forest lands, showing how, exclusively *only Mazaars*, have taken over these lands. These claims however stand, were completely de-bunked by a survey conducted by the Uttarakhand Forest Department, which also found that there are at least 300 unauthorised temples and ashrams, over 35 illegal mazaars and mosques and two gurudwaras built inside the state’s forests in violation of rules, as reported by *The Times of India* in its news report dated April 19, 2023. This report came a week after the State’s Chief Minister, , said that he would (selectively) only take strict action against ‘*land jihad*’.

Claims on growth in population

Also, the anchor harped on the growth in the population of Muslims in Uttarakhand. The channel had given India Census.net as a source for the population figures and said that the Muslim population in Uttarakhand is 16 lakhs.

Significantly, the complainant stated that when it accessed the same website, it found that this was the ‘*estimated population*’ and not exact figures, which the channel had conveniently skipped mentioning.

Furthermore, even if these were taken to be actual figures of the Muslim population, the channel had conveniently compared it to the 2001 census to show population had grown from 10 lakh to 16 lakh. As per the latest official census, the Muslim population in 2011 was 14 lakh. This shows that from 2011 to 2023, i.e. the Muslim population only grew by 2 lakhs, which is not a staggeringly high figure. Again, one can clearly see the intention of both the anchor and the channel behind quoting 2001 census figures to show a higher delta in population increase. In doing so, a prejudicial and stigmatizing mind-set *against Muslims* was perpetuated further, causing actual harm to the community and impacting the equality, and non-discrimination rights of the community..

The complainant reiterated that by airing the impugned broadcast, the broadcaster had violated Section 1 -Fundamental Principles Nos. 4 and 6, Section 2- Principles of Self-Regulation relating to Impartiality and objectivity in reporting and Ensuring neutrality, apart from violating the Specific Guidelines Covering Reportage pertaining to Impartiality, Neutrality & Fairness and Racial & Religious Harmony.

Decision of NBDSA at its meeting held on 6.7.2023

NBDSA considered the captioned complaint with regard to the broadcast aired on Aaj Tak, response of the broadcaster and, after viewing the footage of the broadcast, decided to call both parties for a hearing.



On being served with Notices, the following persons were present for the hearing on 4.8.2023:

Complainant

1. Ms. Aparna Bhatt, Advocate on behalf of the complainant
2. Ms. Karishma Maria, Advocate

Broadcaster

1. Ms. Vrinda Bhandari, Advocate
2. Mr. Manish Kumar, Managing Editor, Aaj Tak Output
3. Mr. Aiman Hasaney, Legal Counsel

Submissions of the Complainant:

The complainant submitted that the impugned programme, which is for a duration of 20 minutes, targeted a particular community. That the video of the impugned broadcast is still available on YouTube, allowing others to express belligerent views in comments.

The anchor starts the programme by informing the viewers that illegal and insignificant Mazaars are cropping up across the country and uses the term "*Mazaar Jihad*". Throughout the programme, instigating and derogatory statements are made against a particular community and the anchor projects that the members of a particular community were grabbing lands. The tone and tenor of the programme indicated that if no action is taken against such incidents of land grabbing, the members of the particular community will capture all land eventually. The anchor has come up with various terms such as "*Hard Jihad*", "*Soft Jihad*", "*Land Jihad*" and now "*Mazaar Jihad*". The complainant reiterated the contents of its complaint and submitted that by airing the impugned broadcast, the broadcaster had not only acted irresponsibly but also violated the Code of Ethics & Broadcasting Standards.

The complainant submitted that mushrooming of or illegal encroachment of land for religious purposes was happening across communities and was not limited to any particular community. However, the posturing of the programme is such that it implies that only a particular community alone was doing so. The complainant submitted that its objection is how the issue has been projected to portray that a particular community was indulging in such practices to expand its space in the country. Any structure which is illegally constructed should be removed. If the impugned broadcast had shown that all religious communities were indulging in illegal encroachment of land, the broadcast could have been regarded as being objective. However, it reiterated that in the impugned broadcast, only one community was targeted and extremely derogatory terms such as "*Mazaar Jihad*" were used.

The anchor frequently used the phrase "Mazaar Jihad," encouraging viewers to do the same by tweeting with the hashtag #MazaarJihad, while he allegedly analysed the illegal mazaars in Uttarakhand. He further disseminated his communal rant, made insulting statements, fed its audience with anti-Muslim myths, and engaged in name-calling.

The anchor further claimed that when these mazaars were destroyed with bulldozers and inspected, it was discovered that the graves did not include any human remains, an assertion which he made without presenting any official government source. In order to sensationalise the news further, the anchor asserted that he had studied a confidential government report that explained how these unlawful mazaars are constructed by seizing government properties. Later in the show, the anchor virtually exhorts his viewers to "look around for such Mazaars and report them to the police".

Submissions of the Broadcaster:

The broadcaster submitted that there was no deficiency in the factual narration. The impugned broadcast was on the issue of illegal Mazaars in Uttarakhand. It submitted that the complainant has not disputed the fact of various illegal mazaars being constructed in Uttarakhand or that the term "Mazaar Jihad" was used for the first time by Uttarakhand Chief Minister and hence was not the invention of the anchor or the channel. Further, it submitted that the Uttarakhand Chief Minister had declared that illegal encroachments in the name of 'land jihad' would not be tolerated in Uttarakhand. The broadcaster submitted that, therefore it was its duty as a journalist to report the same. It submitted that it was not enough for the complainant to allege that the channel had not reported on every violation in one broadcast as different topical issues are raised in different broadcasts at different times.

The broadcaster submitted that it cannot be held responsible or liable for the algorithms or for the tweets posted by persons online, which is the liability of the intermediary and not the channel.

The broadcaster submitted that to give a comprehensive picture of the issue, the impugned broadcast also featured an interview of the Uttarakhand Chief Minister, Field Officer, Jim Corbett National Park and some local residents, which included Muslim residents, therefore it cannot be alleged that a one sided picture was provided in the broadcast.

Further, during the broadcast, at several instances disclaimers were made by the anchor wherein he clarified that its concern was limited only to illegal Mazaars, churches, temples and mosques. The anchor had stated "*Hum Islam ke khilaaf nahi hain, hum mazaaro ke khilaaf nahi hain, masjid ke khilaaf bilkul nahi hain, kisi dharam ke khilaaf bilkul nahi hain aur islam ko maanne walo ke khilaaf bilkul nahi hain. Yeh vishleshan*

unn par nahi hain. Yeh visbleshan sache musalmano par, sachi mazaaro par, sachi masjidon par, islam par bilkul nahi hain. Yeh visbleshan gerkanooni mazaaro par hain” and “Yaha par hum ek aur baat spasht karna chahte hain. Agar kisi sarkari zameen par avaidh kabza karke koi mandir banaya jaata hai, koi church banaya jaata hai, gurudwara banaya jaata hain, toh inn sabhi maamlo mein barabar ki karyawahi honi chahiye. Aur avaidh roop se banne, sabhi dharmik sthalo par, samaan roop se action hona chahiye”.

In respect of the allegation raised by the complainant, that the impugned broadcast was not based on a proper government source but was only based on information received from the Aaj Tak assignment correlated with their sources within the government, the broadcaster submitted that the impugned broadcast was not a documentary but a show, which did not require extensive references.

The Times of India report relied on by the complainant was published much after the broadcast and, therefore cannot be relied upon by the complainant.

NBDSA asked the broadcaster to explain why it raised the population issue in Uttarakhand in the impugned broadcast. The broadcaster, in response submitted that it would submit its response explaining the context in which the population figures were aired during the broadcast.

In rejoinder, the complainant submitted that while the term “Mazaar Jihad” may have been coined by the Chief Minister of Uttarakhand, however in the impugned broadcast it was the anchor who encouraged viewers to tweet “#Mazaar Jihad”, with aim of encouraging such kind of conversation on social media. Regarding the stand taken by the channel, that it cannot be held responsible for social media tweets, which according to the broadcaster is the intermediary's responsibility, the complainant submitted that the person uploading the video on YouTube was also responsible. The liability of the intermediary was limited only to the video not being removed after the complaint is filed. The impugned broadcast is available on the official YouTube channel of Aaj Tak therefore, the broadcaster cannot disclaim its liability.

NBDSA asked the broadcaster on what government sources was it claimed that *Mazaar Jihad* was taking place in Uttarakhand. In response, the broadcaster submitted that as per law it was not required to disclose its sources. In any event, no factual inaccuracies in the broadcast have been highlighted by the complainant. Further, it submitted that in the impugned broadcast, it had revealed its sources as far as permissible. In this regard, the broadcaster drew the attention of NBDSA at time stamp 3:35:00- 3:39:00 of the impugned broadcast, wherein the internal police reports of Uttarakhand Police were discussed and aired.

The broadcaster submitted that the use of the term “*jihad*” had become part of the lexicon.

Additional Written Submissions of the Complainant

The broadcaster stated that during the hearing, certain questions relating to the portion of the impugned broadcast [03:51:25-03:53:29] which pertained to the population growth in Uttarakhand were raised. In response, to the questions, it is submitted that:-

1. The Impugned broadcast discussed the *modus operandi* of how illegal encroachment is executed through various machinations such as setting up sham *mazaars*, on the basis of Uttarakhand police’s internal reports. In the allegedly objectionable portion [03:51:25-03:53:29], the anchor attributes the capture of forest land to build illegal *mazaars* to the explosive growth in the population of the Uttarakhand state — even resulting in demographic change. To depict the population growth and the demographic change, the broadcast utilized population figures from the Census of India 2001 for the year 2001 and from www.indiacensus.net for the year 2021.
2. *First*, it was alleged in the complainant’s rejoinder submissions that the population figures of 2021 have been wrongly used from www.indiacensus.net since they are “estimated” figures and not “actual” figures. The factum of them being “estimated” figures is readily comprehensible since the census of India 2021 has not been conducted as a result of Covid’19 pandemic, and these “estimated” figures have been cited by other media houses as well. Thus, no fault can be concluded in sourcing (and displaying) the population figures from www.indiacensus.net especially when the complainant has not challenged the veracity of these figures.
3. *Second*, it was alleged that the broadcast used the Census of India 2001 population figures as the baseline for comparison with 2021 figures maliciously. The broadcast intended to depict the long-term population growth trend and therefore utilized the year 2001. Further, it bears mention that the trend assessment, including the assessment of the degree of the growth rate (high/ low) is a matter of interpretation. Thus, not utilizing the complainant’s preferred data point (population figures from 2011) does not qualify as a violation of NBDSA’s Code of Ethics.
4. *Finally*, it submitted that the broadcast’s criticism of illegal encroachments, including through setting up sham religious places such as illegal mock-up *mazaars* was neutral and completely secular. In fact, the anchor provided the following disclaimer immediately after the objectionable portion: “*yaha par hum ek aur baat spasht karna chahte hain. Agar kisseri sarkari zameen par avaidh kabza karke*

koi mandir banaya jaata hain, koi church banaya jaata hain, gurudwara banaya jaata hain, toh inn sabhi maamlo mein barabar ki karyawahi honi chahiye.” [03:53:40-03:54:45]

Therefore, it stated that no violation of Code of Ethics could be made out and it was prayed that the complaint ought to be dismissed.

Decision

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

NBDSA noted that the broadcaster submitted that the impugned broadcast contained ground-level reportage and analysis of the phenomenon of illegal encroachment in, *inter alia*, designated forest lands/ government lands in Uttarakhand through false imitation of *mazaars*.

NBDSA observed that the broadcaster had raised the issue of illegal encroachments including through setting up sham religious places such as illegal mock-up *mazaars*. Further, the broadcaster made it clear that they would have dealt with the issue in the same manner in case there were encroachments by setting up of temples, gurudwaras or churches. Since the focus of the discussion was illegal encroachment of public land, NBDSA does not find that the theme of the programme was objectionable.

Based on the submissions advanced by the broadcaster, NBDSA noted that while the term “*Mazaar Jihad*” may have been coined by the Chief Minister of Uttarakhand, however, the same was not used by the Chief Minister in the interview nor was such term used by the Field Officer in the interview which were also aired during the impugned broadcast. NBDSA observed that it was the anchor, who at several instances claimed during the broadcast that illegal encroachment of the land was “*Mazaar Jihad*” and presented the rapidly growing population as one of the explanation for “*Mazaar Jihad*”.

Thus, NBDSA finds that the broadcaster should have avoided using the term “*Mazaar Jihad*” as it has given a totally different dimension to the otherwise valid issue raised by the broadcaster.

NBDSA decided to advise the broadcaster not to use the term “*Mazaar Jihad*” so lightly and be careful about the same in future broadcasts.

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

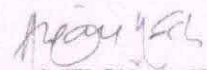
NBDSA directs NBDA to send:

- (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.

Place: New Delhi

Date : 02-11-2023


Justice A.K Sikri (Retd.)
Chairperson

Certified True Copy
Anne Joseph