

ONLY BY EMAIL

November 6, 2024

Citizens for Justice and Peace Email: cjpindia@gmail.com	Ms. Kirtima Maravoor Compliance Officer NBDSA Bennett, Coleman & Company Ltd. (TV Division), Ground Floor, Trade House, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai 400013 Email: legalnow@timesgroup.com
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Dear Sir/Madam,

Re: Order of NBDSA in Complaint (No. 164) dated 31.7.2023 from Citizens for Justice and Peace against Times Now Navbharat for airing a programme on 24.7.2023

Attached please find Order dated November 4, 2024 passed by the News Broadcasting & Digital Standards Authority (NBDSA).

Regards

Annie Joseph
For & on behalf of NBDSA

News Broadcasting & Digital Standards Authority

Order No. 187 (2024)

Complainant: Citizens for Justice & Peace

Programme: "Rashtravad | Gyanvapi Survey के बाद 'ज्ञानवापी आंदोलन' होगा ? |

Supreme Court | Varanasi"

Channel: Times Now Navbharat

Date of Broadcast: 24.07.2023

Since the complainant did not receive a response from the broadcaster within the time stipulated under the News Broadcasting & Digital Standards on 16.08.2023, the complaint was escalated on 16.08.2023 to the second level of redressal, i.e. NBDSA.

Complaint dated 31.7.2023:

The complainant stated that the impugned show was based on the recent Order delivered by the Supreme Court of India, wherein the Court had provided interim protection against the Archaeological Survey of India (ASI) Survey being conducted at Gyanvapi Mosque. On July 21, Friday, the Varanasi District Court ordered an extensive survey of the Gyanvapi Masjid by the ASI to ascertain whether the Mosque was built over a pre-existing Hindu temple, holding that the scientific investigation is "necessary" for the "true facts" to come out.

The Anjuman Intezamia Masjid (AIM), which manages 22 mosques – including Gyanvapi – had challenged the Varanasi District Judge Ajay Krishna Vishvesha's Order in the Supreme Court, contending that its right to appeal to the High Court was frustrated as it was not granted enough time to explore legal remedies. Accepting the contention, the Supreme Court had stayed the Order for three days and asked the AIM to move to the High Court.

The impugned debate show had themes that furthered a divisive discourse that heightened a communal divide throughout its narrative. Such journalism or electronic media coverage mitigates against the basic principles of fair and neutral journalism.

In the impugned show, the host picked up a matter that was sub-judice and presented only one-sided facts of the case. Even before the debate had started, the host started spreading his diatribe and polarized views. The host tried to build the premise of the show by depicting the Muslim community in a suspicious light, questioning their intention behind urging estoppel on the survey. The host further put seeds of doubt in the minds of his audience by terming the stay on the Survey as an attempt to delay the result as "Muslims were scared of the truth coming out."

It became evident in the choice and content spouted by not just the participants in the “debate” but also, unfortunately, displayed by the host that the statements being made were not unbiased or neutral. The host was even observed posing questions to the participants from the Muslim community on the debating panel in an accusatory manner, while an urbane and inclusive attitude was displayed towards participants from the majority Hindu community.

The complainant stated that it was sure that the channel was aware of the existence of a statutory law, the Places of Worship Act, 1991. Though widely debated, the law was passed by Parliament in the wake of the wanton destruction of the Babri Masjid on December 6, 1992, and the shrill demand for “takeover of the Mosques at Varanasi and Mathura”.

The host flagged off the show with the following communally polarizing questions:

1. What was found in the four hours of survey conducted at the Gyanvapi Mosque that the Muslim community got so agitated?
2. Did the survey team find any concrete evidence of there being a temple below the Gyanvapi Mosque?
3. Is the Muslim community scared by the truth beneath Gyanvapi mosque?

The segment started with the host making the following statements, “*The Hindu community has accused the Muslim community of misleading the Supreme Court during the hearing of the Gyanvapi case. There are allegations that the Muslim community is trying to delay the result of the Gyanvapi survey.*”

“The counsel representing the Muslim party to the petition stated that the ASI survey team will also be excavating and digging the Gyanvapi compound, which was a lie as per the Hindu parties. They were only taking pictures and mapping the site.”

The above-mentioned comments show that since the start of the show, the host only intended to and did, present the views of one section, thereby giving a completely biased picture to the audience. While the host was continuing with his biased monologue, pictures showing alleged Hindu symbols were shown in the background.

An interview of S. M. Yaseen of the AIM was then played on the screen, where he was heard stating the following: “*we were fearful that the ASI might gather a mob of people.*” The interviewer then asked, “*Why did you tell the Supreme Court that the survey people had gone with the intention of digging up the compound?*”

To the said question, S. M. Yaseen replied that the survey people had gone to the site of Gyanvapi with a spade in their hands, which clearly showed their intentions,

which he stated they wanted the Supreme Court to be aware of. They also had labourers present at the site.

As the clip ended, the host continued with his one-sided commentary, stating that all the claims made by the AIM in the Supreme Court were just based on the fact that the ASI Survey had carried spades to the site of the survey. The host further stated that the “*Hindu parties*” have made it clear that they would be vehemently opposing the objections raised by the Muslim committees and have even filed their application in the High Court to ensure that the Court does not give any order without listening to them. This portrayal of the contentious groups leading the present controversy as representative of all Hindus is also a fallacious manner of posing the issue and debate.

The host then stated the following: *“The question that arises is that if truth can come out from the survey, then why the Muslim parties are opposed to it? To delay the truth, the Muslim parties are using many tools. For the time being, the case will be heard by the High Court. The BJP is saying that the truth can be delayed, but it cannot be defeated.”*

It was evident from the very beginning of the show that the anchor was presenting the issue of possible damage/ destruction of the Gyanvapi Mosque and the denial of culture and worship rights to sections of the Muslim community with a communal agenda. While the anchor had spoken about the decision of the Supreme Court, the anchor failed to present the unbiased legal issues involved in the said case.

The complainant submitted that reporting on news involves an exercise of imparting information. Questioning the bit of news information in a prejudicial or hysterical way, without any rational basis to that questioning, with an intention to pitch views of only one segment/community, amounts to stigmatising another section that is thus portrayed. Laws, statutory guidelines and evolving jurisprudence have tested and assessed this kind of portrayal and held it to be, in fact, creating an unequal, partisan playing field that both demeans the right to life and the right to life with dignity of that particular targeted section. In practice, therefore, it attacks the right to equality and non-discrimination, too.

Post this, a video showing polarized views of two members of the BJP party, namely Keshav Prasad Maurya and Sadhvi Niranjana Jyoti, was also played. Through the clips, similar polarising statements were made.

Before the debate, the host announced the questions upon which the discussion would be taking place, which were as follows:

1. What was found in those four hours of survey that led to the chaos amongst the Muslim parties?

2. Why are the Muslim parties so afraid of uncovering the truth beneath the Gyanvapi mosque?
3. Did the Survey team actually find the evidence of a Temple?
4. The ASI Survey has been stopped on an interim basis, what will happen afterwards?
5. Will there be a 'Gyanvapi movement' after the survey?

A full-on media trial ensued thereafter as the debate began. The debate comprised two Hindu participants, namely advocate Vishnu Shankar Jain, the Advocate on Record (AoR) representing the Hindu parties in the Court in the Gyanvapi case, and monk Naval Kishore Das. Four participants from the Muslim community, namely Mufti Vajahat Kasmi, Islamic Scholar, Mohd Atiq from the Muslim League, Advocate Asgar Khan and Hafiz Noor Ahmad Azgari, were also a part of the debate panel.

The debate started with the host asking Advocate Jain the following question- *"The Muslim parties could have approached the HC, but they waited till the survey started and then approached the SC. Are these attempts to delay the investigation?"* Advocate Jain replied to the said question by terming the proceedings of the Supreme Court over the survey as *"murder of law."* He then proceeded to present a one-sided case, declaring the moving of the Muslim party to the Supreme Court as wrong and illegal.

A media trial then began, where both Advocate Jain and the host started questioning whether the said move by the AIM was an *"attempt to delay the proceedings in the case"*. Nowhere did Advocate Jain state that the AIM, in the exercise of its legitimate rights, moved the Supreme Court of India. Furthermore, Advocate Jain angrily stated that the Muslim parties *"misled and lied to the apex court"* regarding digging being part of the survey, through which they were able to get the interim stay. Additionally, he kept emphasising how the Muslim parties were able to get the stay through an oral mentioning of the case and issue, maintaining that the proceedings that took place in the Supreme Court were blatantly wrong.

The host then moved on to solicit the opinion of Advocate Asgar Khan. From the start, the host posed questions to Advocate Khan in an accusatory and leading manner, repeating the allegations made by advocate Jain. Host stated that *"you forgot the law, Constitution and procedure, and went to the Supreme Court directly through oral mentioning and fed your story to the Court. You had plenty time to go to the High Court. It baffles me that you were able to reach the Supreme Court but not the Allahabad HC."*

Even while Advocate Khan was speaking and explaining his right to approach the Supreme Court and the subsequent proceedings that took place, the host interrupted him and again accused him of surpassing the High Court with a view of delaying the

proceeding. He also alleged that the Muslim parties were misleading the courts as they were not present at the site when the survey was being conducted. The host then screamed at Advocate Khan, stating that the Muslim parties "*lied and wrongly informed the court that digging was going to take place at the site*".

Soon after, as expected, both the advocates could be viewed in an unseemly way, fighting with each other. Throughout the whole distasteful part of the show, the host acted as a biased adjudicator, siding with Advocate Jain and both mocking and interrupting Advocate Khan.

At one point, while arguing with Advocate Khan and Hafiz Noor Ahmad Azgari, Advocate Jain stated that the Supreme Court was "*wrong in hearing the matter over the ASI Survey on the basis of oral mentioning.*" Thus, not only Advocate Jain questioned the right of the Muslim parties to approach the Supreme Court, but he also questioned the authority of the Supreme Court in hearing the said matter.

It is essential to note here that during the proceedings before the Supreme Court, no questions were raised regarding the legal right of the AIM to approach the SC in the said matter. The Supreme Court also did not raise a question about the statement made by the Muslim party regarding the digging. In its Order, the Supreme Court granted an interim stay on the proposed survey for two days and asked the parties to approach the High Court. Even as the matter is sub-judice, and remains to be decided by the High Court, an out-of-court, a biased media trial was conducted by the host.

Significantly, three days after the telecast of the controversial television debate, on July 27, 2023, in its affidavit placed before the Allahabad High Court, the ASI clearly stated that there was no guarantee that the existing Gyanvapi Mosque would not be damaged or affected, implying that the "*excavation proposed*" could undoubtedly damage the site. Though this happened after the debate was telecast, it remains factually relevant to the issue.

Essentially, during the debate, one of the participants, namely Mohammad Atiq from the Muslim League, accused the anchor of being biased and siding with the "*Hindu party*".

Later in the debate, referring to Mufti Vajahat Kazmi, the host put another accusatory question to the Muslim participant when he asked him to express his views on whether, by approaching the Supreme Court, the Muslim participants had done "*dadagiri (an act of bullying)*" or not. -

Instead of framing an issue in a sober fashion with an intent to explore various aspects of the debate, the host continued the debate, representing his own version of the “*Hindu cause*”, which amounted to partisan coverage and did not fit well with democratic, constitutional principles of independent journalism. Throughout the show, the host continued to make extremely problematic statements. At one point towards the end of the debate, the host asked advocate Jain whether the fight over Gyanvapi would be as prolonged as the fight over Ayodhya was. While the host himself made the comparison of the Gyanvapi case with the Ayodhya case, he also accused the Muslims of comparing the said situation to Babri Masjid to provoke the Muslim Community.

The debate show appeared more like a one-sided show promoting the host’s version of the Hindu cause or a religious/sectarian debate rather than a newsroom debate.

As per the guidelines of NBDSA, the host is supposed to and expected to take a neutral stand, introduce a neutral theme and not side with a particular community to put any other community on the spot, which did not happen in the instant case. As is apparent, the host was keen on leading the debate with the question of whether the Muslim community was delaying the proceeding and hiding the truth. As the anchor of a show on a news channel that is supposed to have a neutral and unbiased theme, the host did not even attempt to have any non-communal theme on the show.

The narrative was not even put to question as to whether the Muslim parties had the right to approach the Supreme Court or not. Not once did the host doubt the existence of a temple beneath the Mosque. Rather, he repeatedly implied that the truth of the temple would come out. The host let his biases and prejudices against the Muslim community cloud the role he is supposed to play in a debate show and made it evident that he was batting for the Hindu cause. He was rather offended when the Muslim participant pointed out his biasness.

Throughout the show, Advocate Jain was aggressive and consistently pushed Advocate Khan into a defensive corner by being hard and questioning him. Together, Advocate Jain and the host both demanded that he prove that the AIM was right in stating before the Court that the survey included digging and excavation.

He kept reiterating throughout the show that by approaching the Supreme Court, the Muslim community was against the truth coming out, making the entire show a communal battleground. This not only violated the guidelines issued by NBDSA from time to time but also stood in violation of our constitutional principles.

Apart from this, NBDSA's guidelines state that "*News broadcasters must not broadcast any form of 'hate speech' or other obnoxious content that may lead to incitement of violence or promote public unrest or disorder as election campaigning based on communal or caste factors is prohibited under Election Rules. News broadcasters should strictly avoid reports which tend to promote feelings of enmity or hatred among people, on the ground of religion, race, caste, community, region or language.*" However, the channel acted in complete violation of this directive as well as the Code of Ethics & Broadcasting Standards and certain specific guidelines relating to conducting debates on TV news channels. It further amounted to certain offences related to hate speech, misinformation, and the promotion of enmity under the Indian Penal Code.

Throughout this 30-minute segment, the channel was trying to goad a biased narrative on an ongoing case. Attempts were also made by the channel to pit participants of two separate communities against each other.

With the broadcaster's vast viewership, this prejudicial view has already reached large sections of the people through TV channels and social media platforms, including YouTube, Twitter, and Facebook.

If the channel truly cared about the values of secularism and fraternity, it would abide by them. However, it is clear that in utter disregard of these constitutional values, the channel brazenly forwarded its anti-minority narrative by showing the Muslim community in a suspicious light.

The broadcaster stated that it was sure that a channel such as the broadcaster's would be aware of the recent matters pending in the Hon'ble Supreme Court, wherein specifically, the role of television channels and anchors came in for sharp questioning. In view of this, the above-mentioned content should be removed from all social media accounts of the channel and the broadcaster's website, and a public apology should be issued for the communal reportage.

Complaint dated 16.8.2023 filed with NBDSA:

The complainant submitted that the broadcaster had violated the Code of Ethics and Broadcasting Standards, particularly Section – 1, Fundamental Principles 1, 4, 5 and 6, and Section – 2, Principles of Self Regulation relating to 2. Ensuring neutrality, 3. Law & Order, Crime & Violence and 9. Racial & Religious Harmony. The programme further violated the Specific Guidelines for Anchors conducting Programmes including Debates.

Further, the inflammatory and unverified content of the show amounted to inciteful hate speech, which is a punishable offence under various sections of the Indian Penal Code (IPC).

The complainant also relied on the judgment of the Hon'ble Supreme Court in *Amish Devgan vs. Union of India and others [Writ Petition (Criminal) No. 160 of 2020* decided on December 7, 2020] *Pravasi Bhalai Sangathan v. Union of India and ors.*, [AIR 2014 SC 1591] and on the observations made by the bench of Justices KM Joseph and BV Nagarathna (Supreme Court of India) while hearing a batch of petitions seeking action against hate speech.

Reply dated 8.9.2023 from the broadcaster:

1. At the outset, all allegations/contentions/averments made by the complainant in the subject complaint are denied and disputed.
2. In the complaint, frivolous allegations regarding the non-compliance of the Guidelines issued by the Authority have been raised. The intent behind the complaint is to prevent the channel from raising relevant issues through its debates. The complainant has blindly questioned the conduct of reputed anchors and journalists on the channel without reviewing the context and entirety of the topic being debated, as well as the right of the media to raise difficult questions on relevant and current events in the country. Such an attempt not only aims at undermining the editorial freedom of the channel but also casts baseless aspersions on the credibility of reputed anchors and journalists appearing on the channel. Hence, it must be deprecated outrightly.
3. The complaint filed is not maintainable as the broadcaster has not violated any rules and regulations. The subject programme was a debate programme titled "*Rashtravad*", which is in the nature of a 'live' show on Times Now Navbharat that invites comments/views and responses from various guests/speakers, experts on a specific, pointed and focused issue. It provides an equitable platform for panellists to put forth their views freely. The debate raises questions and issues that have gained public importance and of national interest, in the recent past and which have an impact on the nation and the public at large. The impugned debate was in the context of a recent Hon'ble Supreme Court order passed in "*Committee of Management Anjuman Intezamia Masjid Varanasi v Rakhi Singh & Ors*", SLP (C) No. 14853/2023, wherein the order of District Court directing excavation done by ASI in the Gyanvapi Mosque was kept in abeyance till 26.07.2023.
4. It has always been and continues to be the endeavour of the channel and its representatives to bring to the fore core issues and project as many diverse views as possible on such issues.
5. The impugned debate did not violate the code of ethics, rules and regulations in any manner whatsoever, as alleged or otherwise or at all *inter alia* as the impugned

debate has to be viewed in the context of the questions raised. In the complaint, selected comments made by the anchor have been highlighted to level the allegations of biasness and the complainant appears to be targeting the anchor in his individual capacity as a journalist. The complaint focuses only on one side of the spectrum and does not appreciate that a counterargument is equally relevant, important and critical for viewers to form their opinions, specifically when popular beliefs and criticisms are challenged. Further, viewers have a right to know an alternative argument to such popular beliefs on significant matters. Raising pertinent, strong and pointed questions cannot be brushed aside with the allegation that it 'peddles a narrative' or is polarized or biased.

6. The respondent channel has been completely able to maintain the Fundamental Principles of the Code of Ethics and Broadcasting Standards by proving time and again its impartiality and independence/ objectivity while debating the issues of national importance in order to bring out the correct facts on the impugned subject before the public at large, and this is exactly what the channel and its journalists/ anchors are supposed to do in order to discharge their professional obligations. Hence, the allegations contained in the subject complaint are wholly misconceived.
7. The impugned broadcast, by no stretch of the imagination, amounted to any violations of NBDSA guidelines as alleged or otherwise or at all. The complainant was deliberately targeting the anchor for being selective towards a particular community, party, religion on frivolous grounds. The pivotal intention was to malign the reputation of the channel and to dissuade it from broadcasting news on important issues. The debate did not propagate communal attitudes or attack any particular religion. It vehemently denied that biased coverage was made in order to favour any particular political or religious belief.

Factual Submissions

8. Vishnu Shankar Jain, Advocate; Mahant Nawal Kishore Das, Mahamandleshwar; Mufti Vajahat Kasmi, Islamic Scholar; Mohammad Atik, Spokesman Muslim League; Asgar Khan, Advocate and Hafij Noor Ahmad Ajhar, AIMPLB were invited as panellists in the impugned broadcast.
9. The anchor moderated the debate in the backdrop of Hon'ble Supreme Court Order wherein an interim stay was granted against the survey being done by ASI in the Gyanvapi Mosque. Several panellists were invited to the debate show, which also included representation from the Muslim League. The debate was organised to put the perspective of different communities in front of the viewers and also to seek answers and clarifications on popular narratives that had been

prevalent in the minds of the public regarding the ASI Survey and the steps taken by the concerned parties in the on-going litigation.

10. The primary intent of the debate was to discuss the contentious subjects surrounding the recent reports suggesting the discovery of Hindu symbols within the Gyanvapi Mosque premises.
11. The anchor discussed the rationale behind resorting to a direct approach to the Hon'ble Supreme Court instead of initially seeking recourse through the High Court. The panel also consisted of Islamic Scholars and Muslim League spokesmen, which shows the neutral platform offered by the channel to debate this issue. Islamic Scholar Sh. Mufti Vajahat Kasmi even stated the view that a scientific survey by ASI must be conducted.
12. The anchor did not endorse any personal views or beliefs to make a point during the debate, and the debate was solely based on public debates on the subject and the views of the panellists. These observations were not only neutral but also objective. The debate was organised with the aim of informing the public at large.
13. The complainant has presented distorted things in its complaint without understanding the facts. The whole purpose of the investigation or scientific survey was to uncover the facts on the truth of the Gyanvapi case, which could have only been known by the survey. Even the pictures and photos have been shown of Hindu Symbols from inside the Gyanvapi campus.

Legal Submissions

14. The fundamental principles in the Code of Ethics and Broadcasting Standards were framed so as to regulate the contents of the broadcasters in order to provide impartiality and objectivity in reporting. The programme in question merely debated an issue of public importance. Nowhere did the said programme violate any fundamental principle or principles of self-regulation.
15. The channel or the anchor, by way of such debate, did not violate any guidelines or regulations as alleged or otherwise or at all. The debate was conducted in an open and objective manner and did not cause any incitement of communal bias or influence or mislead the viewers in any manner whatsoever.
16. It denied that the channel violated any of the guidelines of the NBDSA, specifically those that govern the conduct of anchors on debate shows and issues surrounding hate speech.

17. The impugned programme, by no stretch of the imagination, could be deemed to have been made on selective and biased coverage or have outraged religious feelings of any class or community, statement creating or promoting enmity or promoting enmity, hatred or ill-will between classes or violated any provisions of Indian Penal Code, 1860, Cable Television Network Rules, 1994 or fundamental principle of journalism or principles of self-regulation. Further, no programme was made to propagate some particular political or religious ideology or was made against any political belief. Media freedom is an essential pillar of a free democracy and plurality of views and opinions, however strong and direct they may be, must be allowed to protect this sanctity.
18. It is a settled law that the media and press should not be unnecessarily restricted in their speech as the same may amount to curtailment of expression of the ideas and free discussion in the public on the basis of which a democratic country functions. It has been held by the Hon'ble Supreme Court that the freedom of speech and expression includes freedom of propagation of ideas and that freedom is ensured by the freedom of circulation, without which the publication would be of little value. The Hon'ble Supreme Court has also held that the liberty of the press is an essential part of the right to freedom of speech and expression and that this liberty consists of allowing no previous restraint upon publication.
19. Apart from the right of the channel to disseminate to the public at large, the citizens of India have the right to know about the current affairs of the country, and the right to know is also another aspect of free speech and democracy. The freedom of speech and expression includes the right to hold opinions without interference and to seek, receive and impart information and ideas to any media regardless of frontiers. It has been observed by the Hon'ble Supreme Court of India that when the freedom of expression is put to use by the mass media, it requires additional dimensions and becomes freedom of information. It has been held that the constitutional guarantee of freedom of speech is not so much for the benefit of the press as it is for the benefit of the public. The freedom of speech includes within its compass the right of all citizens to read and be informed. The aforesaid programme was one such criticism and a fair one.
20. The framers of our Constitution recognized the importance of safeguarding the right under Article 19(1)(a) since the free flow of opinion and ideas is essential for the collective life of the citizenry.
21. It is settled law that the press is entitled to make fair comments on issues that impact the public at large, which is a right guaranteed under Article 19(1)(a) of the Constitution of India. This is an integral part of the right of free speech and expression and the same must not be whittled away. The broadcaster relied on

several judgments of the Hon'ble Supreme Court in support of its submissions.

22. The impugned programme was merely reflective of the various facets of the topic being reported upon and must not be viewed in isolation but in the overall context of the subject being discussed. The reporting was factually correct and of public importance; thus, no prejudice was caused to any specific community or religion under any circumstances whatsoever.
23. Further, the debate programme must 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, sentence or stanza came about.
24. The choice of a news debate is entirely editorial discretion. There was no cherry-picking, and no interest groups were served by such debate. Such allegations are motivated, and in fact, the complainant has cherry-picked statements made in the debate to push an agenda. The channel did not impose its opinions in the debate. Raising pertinent questions is the media's right to report on issues that are of public interest. Several opinions are made available in a debate like this. To call it an opinionated programme was incorrect and baseless.
25. A comment or a sentence, stanza or the programme as a whole may be independent, bold, and even exaggerated. Mere exaggeration, however gross it may be, would not make the comment unfair if not founded by malafide. Information is the only weapon the public has to question the government and protect its own interests. People need information and free discussions to make intelligent choices as citizens. Courts cannot dictate the press.
26. The object and context of the programme can be understood only by viewing the programme in totality and not by picking and choosing words and sentences out of context and reading them in the literal sense, as has been done by the complainant. The programme neither intended to polarize citizens nor spread negative propaganda nor to encourage violence against any class of people in the country/ society.
27. The channel's intent was never to communalize any issue or, degrade any religious group, or sensationalize any issue but to depict the correct picture before the public.
28. 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.

29. Actions or comments made by public figures are often subjected to intensive and invasive dissection by all members of the public, due care thus must be exercised by such public figures before commenting.
30. Islamophobia and Hinduphobia both need to be freely and fearlessly discussed and debated, especially when they can influence the views of the public.
31. In the broadcast held on 24.07.2023, the anchor merely conducted and carried out a free debate and discussion on the topic of the Survey of Hindu symbols being found inside the Gyanvapi campus.
32. The issue taken up for debate was relevant and significant, keeping in mind the current happenings. The debate intended to seek answers to specific issues, make available counter perspectives on a widely popular narrative, and get opinions to support or oppose such narratives. The idea was to ensure narratives were freely analysed and public at large also consumed views that are not always popular or publicized.
33. It is therefore pertinent to state that a news channel is well within its right to present the news event and current affairs of extreme public and national importance in the (i) manner that it deems 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 the light of various submissions made both factual and legal, and also various judgments referred to, it most respectfully submitted that the Respondent, in the exercise of its Fundamental Right envisaged under Art 19(1)(a), had telecasted the said debate programme. There was no violation of any guidelines or other rules and regulations. Thus, the present complaint was not legally sustainable and, hence, needs to be rejected outright.

Decision of NBDSA at its meeting held on 06.11.2023

NBDSA considered the complaint response of the broadcaster and after viewing the footage of the broadcast, decided to call the parties for a hearing.

On being served with Notices, the following persons were present at the hearing on 10.04.2024:

Complainant:

1. Ms Karishma Maria, Legal Representative
2. Ms. Teesta Setalvad

3. Ms. Tanya Arora

Broadcaster:

1. Ms. Kirtima Maravoor, Compliance Officer NBDSA
2. Mr. Kunal Tandon, Advocate
3. Ms. Niti Jain, Advocate
4. Mr. Satya Prakash, Executive Editor

Submissions of the Complainant

The complainant submitted that the Anjuman Intezamia Masjid (AIM), which manages 22 mosques, including Gyanvapi – had approached the Hon’ble Supreme Court against the Order passed by the Varanasi District Judge contending that its right to appeal to the High Court was frustrated as it was not granted enough time to explore legal remedies. The contention of the Petitioners was accepted by the Hon’ble Supreme Court, which stayed the Order for three days and asked the AIM to move to the High Court.

The impugned show was conducted after the Hon’ble Supreme Court’s Order. The complainant submitted that the anchor of the debate show failed to present the news regarding the survey of Gyanvapi objectively. Even after choosing a topic that was sub-judice, the host presented only one-sided facts and built an extremely problematic premise for the debate. Even before the debate began, the host started spreading his diatribe and polarized views. By questioning the intention behind urging estoppel on the survey, the show attempted to depict the Muslim community petitioners in the case in a suspicious light. The host further sowed seeds of doubt in the minds of his audience by terming the stay on the survey as an attempt to delay the result as *“Muslims were scared of the truth coming out.”*

The debate show was not moderated to ensure impartiality. The clear intention of the host was to create in the viewer’s mind a prejudicial picture regarding a sub-judice matter, depicting the Muslim petitioners approaching the Supreme Court as someone afraid of uncovering the truth and creating chaos to hide the evidence that had been found by the survey team in the four hours of the survey.

If adequate time was given on the show to the Places of Worship Act, 1991, which the Indian Parliament passed after the demolition of Babri Masjid, a counter view would have been available; however, throughout the impugned show, there was no mention of the Act.

The host flagged the show with communally polarizing questions such as *“What was found in the four hours of survey conducted at the Gyanvapi Mosque that the Muslim community got so agitated?”* ; *“Did they survey team find any concrete evidence of there being a*

temple below the Gyanvapi Mosque?” and “Is the Muslim community scared by the truth beneath Gyanvapi mosque?”.

The complainant submitted that the country had been torn apart by the politics of “mandir” and “masjid” and by the competing claims being made by both sides. In this atmosphere to broadcast a show on the issue brazenly picked up as well as the premise set by the host for the debate, the choice of the participants and the questions formulated for the debate made it evident that the intention of the said show from the word go was to play with the divisive communally polarising angle.

The counsel representing the Muslim party to the petition stated that the ASI survey team would also be excavating and digging the Gyanvapi compound, which was a lie according to the Hindu parties, who said that they were going to take pictures and map the site. It is pertinent to mention that within a week from the date of the telecast, an affidavit was preferred on behalf of ASI in the Court, wherein ASI disclaimed any liability for any damage that may happen on the side of the Mosque.

The fulcrum of its complaint was how the broadcaster had portrayed the entire dispute. Throughout the show, the host only presented the views of the Hindu parties to the case and built a completely biased picture before the audience.

It reiterated that, at present, the Places of Worship Act of 1991 confers certain rights to religious minorities under the Constitution. Therefore, the show failed to depict the constitutional rights that are granted to the minority community and access to these rights. It painted a one-sided picture by questioning the right of the AIM to approach the Supreme Court. It is pertinent to mention that under the Constitution and law, aggrieved parties to disputes and conflicts are entitled to agitate their issues before courts of law. The complainant questioned the purpose the broadcaster sought to achieve by airing the impugned broadcast. Further, in the show, questions like “Gyanvapi survey ke baad gyanvapi andolan hoga kya?” and “Supreme Court wala nasee” were raised.

Submissions of the Broadcaster

The broadcaster submitted that the presentation and mannerism of a particular debate is a facet of Article 19(1)(a), which is best left to be determined by the broadcaster. Therefore, if one were to judge the manner of presentation of the debate, it would be a violation of Article 19(1)(a). The press is entitled to make fair comments on issues that impact the public at large, which is a right guaranteed under Article 19(1)(a) of the Constitution. This right includes not only the freedom to express one-self through the medium of the press, with reasonable restrictions contained in Article 19(2), but also leaves the manner of presentation to the sole decision of the presenter.

The impugned programme was a discussion on a matter which is sub judice, i.e. the Order of the Hon'ble Supreme Court in "*Committee of Management Anjuman Intezamia Masjid Varanasi v Rakhi Singh & Ors*", SLP (C) No. 14853/2023. The lawyers, politicians, and people involved in the matter, including the plaintiffs, appeared on the broadcast.

There was no bias or partisan coverage, as alleged by the complainant, as the questions were raised to all the panellists, who were given an opportunity to express their views. The programme was conducted in an open and objective manner.

The impugned debate in no manner promoted any one religion. It is denied that the programme aired by the channel acted as a communal battleground. The panel consisted of Islamic Scholars and Muslim League spokesmen, which shows the channel offered a neutral platform to debate this issue. No bias was adopted when giving the screen timings to the various panellists in the shows.

Further, it submitted that the impugned broadcast has to be seen 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. The channel had duly exercised due diligence and caution while airing the facts in the public domain. It further stated that the impugned programme did not violate any code of ethics, rules, regulations in any manner whatsoever as alleged.

In rejoinder, the complainant submitted that the anchor failed to object and interject to the claims made by the Advocates for the Hindu side, who repeatedly proclaimed during the debate that Muslims had no claims to the Masjid. Furthermore, the complainant questioned the basis on which the anchor objected to the Article 32 rights of the Petitioners. While it had no objection to the broadcaster discussing Gyanvapi, Idgah in Mathura, VHP's claim about taking over 4000 dargahs and masjids in the country etc. however, its objection was with the timing of the debate, which was aired when the Hon'ble Supreme Court was seized of the matter. The complainant reiterated the submissions made by it in the complaint.

Decision

NBDSA considered the complaint, response of the broadcaster, gave due consideration to the arguments of the complainant and the broadcaster and reviewed the footage of the broadcast.

The impugned programme was a debate conducted by the broadcaster in the backdrop of a recent Hon'ble Supreme Court order passed in "*Committee of Management Anjuman Intezamia Masjid Varanasi v Rakhi Singh & Ors*", SLP (C) No.

14853/2023, wherein the order of District Court directing excavation done by ASI in the Gyanvapi Mosque was kept in abeyance till 26.07.2023.

NBDSA observed that while it is the editorial freedom of the broadcaster to conduct a debate on any topic of its choice, however while conducting a debate on such a sensitive issue which is sub judice before the Court, the broadcaster must adhere to the Specific Guidelines on Reporting Court Proceeding.

NBDSA noted that the anchor of the debate failed to objectively present the news regarding the Survey of Gyanvapi, in as much as he raised questions as to why the *"Muslims were scared of the truth coming out"*, which is a violation of the Specific Guidelines on Reporting Court Proceeding, particularly Guidelines 3, which states that *"Conjectures and speculation shall be avoided in news reports relating to proceedings pending in a Court, Tribunal or other judicial forum."*

Furthermore, instead of mentioning the names of the parties, the anchor gave a communal color to the debate, by constantly repeating *"Hindu Paksh and Muslim Paksh"*, thereby also misrepresenting the facts. The communal thrust given to the debate violated the Code of Ethics & Broadcasting Standards and the Specific Guidelines covering Reportage relating to Racial and Religious Harmony.

Consequently, NBDSA decided to admonish and censure the broadcaster and advised the broadcaster to avoid giving communal slant to such sensitive topics in the debates conducted, particularly as the issue is pending before the Courts.

NBDSA further also directed the broadcaster to remove the video of the said broadcast, if still available on the website of the channel, or YouTube, and remove all hyperlinks including access which should be confirmed to NBDSA in writing within 7 days of the Order.

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.

Justice A.K Sikri (Retd.)
Chairperson

Place: New Delhi
Date : 04-11-2024